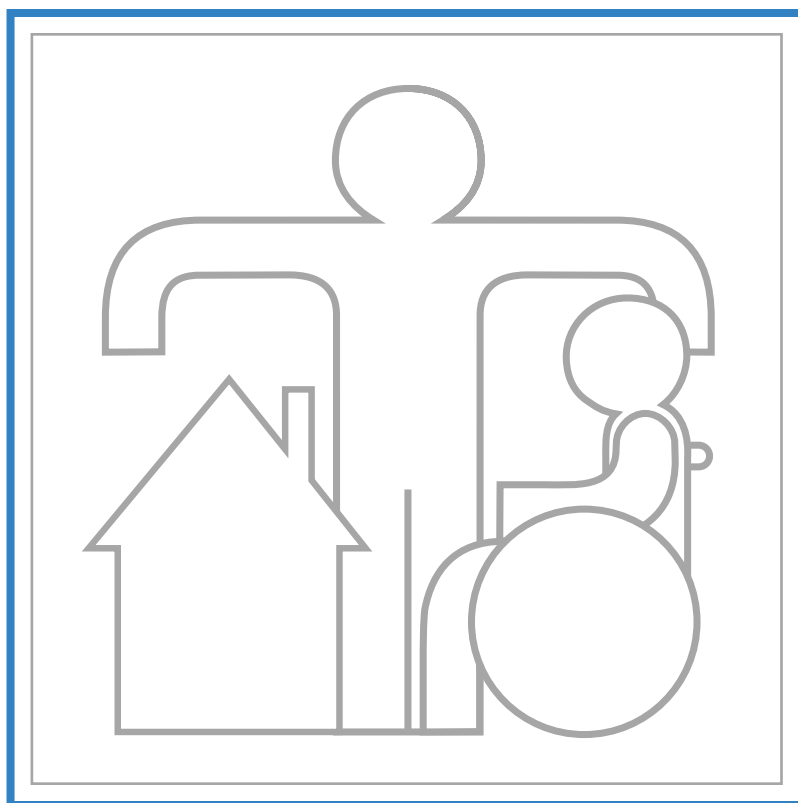


2002 REVISED EDITION

HANDBOOK *for* CONSERVATORS



JUDICIAL COUNCIL OF CALIFORNIA

HANDBOOK FOR CONSERVATORS

2002 Revised Edition

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The Judicial Council has developed this handbook for statewide use by private conservators under Probate Code sections 1834–1835. The points of view, concepts, and practices expressed in this handbook do not necessarily represent the official position of the Judicial Council or its members.

This handbook is based on information available as of July 2002. Although the handbook is updated periodically, it is not possible to reprint it every time California conservatorship laws change. You should, therefore, consult your lawyer before you make important decisions as a conservator.

If you have suggestions or comments regarding this handbook, please write to the Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94102-3660.

**To order copies of this book, see page vi. The text is also available on the
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Price: Ask the clerk of the superior court in your county.

Local

Supplement: Ask the clerk of the superior court in your county for the *Directory of Community Resources*, the court's local supplement to this handbook.
(It may cost extra.)

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Order from: State of California
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Price: \$20 (includes postage). Make checks payable to the State of California.

Local

Supplement: Each superior court will prepare a local supplement to this handbook, called the *Directory of Community Resources*, which is available at the superior court clerk's office. The supplement is not available from the AOC. There may be an extra cost for the supplement, payable to the clerk of the court.

VIDEOTAPE

An excellent videotape, *With Heart: Understanding Conservatorship*, has been produced by the Alameda County Bar Association. It is available at the superior court in Alameda County and at the superior courts in some other counties for viewing by conservators before they receive their Letters of Conservatorship or by arrangement at other times. Copies may also be purchased directly from the Alameda County Bar Association, 360 22nd Street, Suite 800, Oakland, CA 94612; telephone: (510) 893-7160; fax: (510) 893-3119; e-mail: www.acbanet.org. The price is \$30, plus \$5 shipping. Your lawyer may also have, or may be able to get, a copy of the tape for your use.

HOW TO USE THIS HANDBOOK

This handbook has been written to help you in your role as conservator of a person, conservator of an estate, or limited conservator of a person or estate. The book starts at the point that you have been appointed conservator. It explains what is expected of you and suggests resources to help.

This is not a do-it-yourself handbook. Most likely, you will need a lawyer's help at various times during the conservatorship. The symbol **L** is used throughout the book to emphasize situations that may require your lawyer's advice.

Although this book contains a lot of useful information, it is not meant to be read straight through. Instead, read the overview of conservatorship in Chapter 1 and any other chapters that apply to you. Then look in the index to find topics in the rest of the book that apply to you. Keep this book handy and refer to it when you need information.

- *Are you a temporary conservator?*
If so, read the overview in Chapter 1 and then read Chapter 2.
- *Are you the conservator for a developmentally disabled adult?*
If so, read the overview in Chapter 1 and then read Chapter 3.
- *Are you conservator of a person?*
If so, read the overview in Chapter 1 and then read Chapter 4.
- *Are you conservator of an estate?*
If so, read the overview in Chapter 1 and then read Chapter 5.

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Legal terms The first time a legal term is used in a chapter, it appears in **boldface** type. These terms are defined in the Glossary at the back of this handbook.

Legal advice The symbol **L** indicates a situation that may require your lawyer's advice.

A video is also available. You may arrange with the court or your lawyer to see *With Heart: Understanding Conservatorship*, a videotape that includes information on the matters covered in this handbook. See page vi at the front of this handbook.

1

OVERVIEW OF CONSERVATORSHIP

You have been appointed **conservator** by a **probate court** judge. A conservator is a person or organization chosen to protect and manage the personal care or finances, or both, of someone who has been found by a judge to be unable to do so. That person is called the **conservatee**.

There are all kinds of conservatees. Many are elderly people, while some are younger people with temporary or permanent mental or physical disabilities. They come from all walks of life and many cultures. What they have in common is that they are human beings who need help to live the best life possible.

Some conservatees can no longer shop for food or cook; others need help bathing and dressing. Some need medical care or help cleaning the house. Others can't drive and need help getting around. Some conservatees are isolated and need social activities and contact with other people.

Still other conservatees can't keep track of their money or remember to pay their bills. Some give away large sums of money to strangers; others need help managing their investments.

Just as there are many kinds of conservatees, there are many kinds of conservators. What conservators have in common is their willingness to help someone who needs assistance in making his or her way in the world. A conservator might be the conservatee's wife, husband, daughter, son, mother, father, brother, sister, other relative, or friend. If there is no suitable relative or friend who is willing to serve, the conservator might be a private professional conservator or a county agency called a **public guardian** or public conservator.

You have been appointed conservator because someone—your parent, spouse, child, or other relative or friend—needs help, and you are willing to lend a hand. You are the conservator because you care about the conservatee, and this handbook has been written to help you carry out your duties.

The position of conservator is one of great trust and responsibility. The court and the conservatee are trusting you to follow the law and to act in the conservatee's best interest. You should make choices that support, encourage, and assist the conservatee's capabilities and wishes.

You are authorized to make decisions for the conservatee, but in certain situations you must get a judge's approval first. Your lawyer will help you **file a petition** whenever you need to ask for court approval for a specific action.

1. Duties of Conservators of the Person and Conservators of the Estate

The court appoints a **conservator of the person** to help someone take care of his or her daily needs. When someone needs help managing his or her finances, the court appoints a **conservator of the estate**. Often a court will appoint one person to be both conservator of the person and conservator of the estate.

Once you are appointed as conservator, it becomes your responsibility or legal duty to provide this help, depending on the type of your appointment.

BRIEF SUMMARY OF YOUR DUTIES AS CONSERVATOR OF THE PERSON

- You arrange for the conservatee's care and protection.
- You decide where the conservatee will live.
- You make arrangements for the conservatee's
 - Health care
 - Meals
 - Clothing
 - Personal care
 - Housekeeping
 - Transportation
 - Recreation

- You may be required to report to the court on the conservatee's current status. See Chapter 6.

See Chapter 4 for more information on the duties of a conservator of the person.

BRIEF SUMMARY OF YOUR DUTIES AS CONSERVATOR OF THE ESTATE

- You manage the conservatee's finances.
- You locate and take control of the conservatee's **assets**.
- You collect **income** due to the conservatee.
- You make a budget to show what the conservatee can afford.
- You pay the conservatee's bills.
- You invest the conservatee's money.
- You protect the conservatee's assets.
- You **account** to the court and to the conservatee for your management of the conservatee's assets.

See Chapter 5 for more information on the duties of a conservator of the estate.

2. Types of Conservatorships

There are several types of conservatorships. In each type, the court may appoint a conservator of the person, a conservator of the estate, or both.

A. Probate Conservatorships

Probate conservatorships are so called because they are based on laws found in the California Probate Code. This handbook focuses mainly on the probate conservatorship, because it is the most common type of California conservatorship. A probate conservatorship may be a **general** or a **limited conservatorship**; in addition, a **temporary conservatorship** may need to be set up until a permanent conservator can be appointed (see the discussion that follows).

- **General conservatorships** These are set up for adults who can't handle their own finances or care for themselves. These conservatees are often older people with limitations caused by aging, but they also may be younger people who have been seriously impaired—as the result of an auto accident, for example.
- **Limited conservatorships** These may be set up for adults with **developmental disabilities** who cannot fully care for themselves or their property, but who do not need the higher level of care or help given under a general conservatorship. Developmental disabilities include mental retardation, epilepsy, cerebral palsy, and autism that began before age 18. They also include conditions that are similar to mental retardation or that require similar treatment. For someone with more extensive developmental disabilities, the court may decide to set up a general conservatorship.

Tip for limited conservators: Read Chapter 3 first Chapter 3 explains limited conservatorships. If you are a limited conservator or a general conservator of a person with developmental disabilities, read Chapter 3. It will help you determine which other parts of this handbook apply to you. If you are unsure which information in this handbook applies to your limited conservatorship, check with your lawyer. **L**

- **Temporary conservatorships** These may be set up when a person needs immediate help. A judge may appoint a temporary conservator of the person or of the estate, or both, for a specific period until a permanent conservator can be appointed. A temporary conservator arranges for temporary care, protection, and support of the conservatee and protects the conservatee's property from loss or damage.

Tip for temporary conservators: Read Chapter 2 first Chapter 2 will help you determine which other parts of this handbook apply to you.

B. Lanterman-Petris-Short (LPS) Conservatorships

Lanterman-Petris-Short conservatorships are so called because they are based on the Lanterman-Petris-Short Act, a 1969 law named after its sponsors in the California legislature. They are also called **LPS conservatorships**, a term that will be used throughout the rest of this handbook.

An LPS conservatorship must be created to arrange for certain kinds of very restrictive living arrangements and extended mental health treatment for people unable to provide for their own needs for food, clothing, or shelter as a result of a mental disorder or chronic alcoholism, and who cannot or will not agree to the arrangement or treatment voluntarily. Although a private citizen may be appointed an LPS conservator, the appointment process must be started by a local government agency, usually a county's public guardian or public conservator.

LPS conservatorships are not covered in this handbook. If you are an LPS conservator of an estate, you may find some of the information in Chapter 5 helpful, but ask your lawyer about any differences that may affect your duties. You might also discuss with your lawyer the possibility of seeking appointment as probate conservator of the estate while continuing as LPS conservator of the person. It is generally much more convenient, efficient, and less expensive to be a probate conservator rather than an LPS conservator of someone's estate. **L**

3. Getting Started

Before you may begin to handle the conservatee's affairs, you must take certain steps to **qualify** as conservator. Once you have qualified, you must obtain, fill out, and file with the court an official **Judicial Council** form, called **Letters of Conservatorship**, or just **Letters**. A blank copy of this form (form GC-350) is reproduced in Appendix E, at the back of this handbook. Appendix F also tells you how to get copies of all of the Judicial Council forms you may need in your conservatorship.

A. Qualifying to Serve as Conservator

After the court hearing on your request to be appointed conservator, the judge must sign and the court must file its order appointing you as conservator. Before you can take any action as conservator, however, you must qualify for this office by

- Signing an acknowledgment that you received a statement describing the duties and liabilities of the office of conservator and also that you received a copy of this handbook. (The acknowledgment is Judicial Council form GC-348, designed for this purpose. A blank copy is included in Appendix F, at the back of this handbook.)
- Obtaining a **bond**, when one is required. (A bond is required in most cases to guarantee proper performance of the duties of the conservator of the estate.) **L**

- Signing an oath, or affirmation, that you will perform your duties as conservator according to law. (This affirmation is part of the Letters of Conservatorship.)
- Filing these papers with the court clerk. **L**

Ask the court for its local supplement to this handbook Most superior courts have a local supplement to this handbook. These may have additional information about local court requirements. Many also have important information about local community resources that may be available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure you have all the local materials you need.

B. Letters of Conservatorship

After the judge appoints you conservator and you have qualified for the appointment, you must obtain your Letters of Conservatorship from the court clerk. Your Letters show your authority to act as conservator. They prove that you were appointed conservator of the person, conservator of the estate, or both, and that you qualified for the office.

Some of the things that the judge has authorized you to do are spelled out in your Letters, but many actions you can take affecting the conservatee's life won't be listed. These permitted actions are called **powers**, and they are set out in the California Probate Code. Consult your lawyer and review other sections of this handbook to learn of powers you have that may not be stated in your Letters. **L**

Powers not specified in Letters See Chapter 4 for the main discussion of the powers and duties of conservators of the person, and Chapter 5 for the main discussion of the powers of conservators of the estate. **L**

Using certified copies of your Letters You will often need to show or provide a **certified copy** of your Letters whenever someone requires official proof of your authority to act as conservator.

The original Letters of Conservatorship that you sign is filed and kept in the court's file. To get certified copies of your Letters, ask a clerk in the court clerk's office to copy the Letters and place the court seal and the date of the certification on the copies. A certified copy must have an original seal; a photocopy of the certified copy is not acceptable. The clerk will charge a fee for each certified copy.

Contact your lawyer if you don't receive your certified copies of your Letters within a few days after you have completed the steps necessary to qualify as conservator following your appointment. **L**

Keep recently certified copies of Letters on hand The copies of Letters you provide or show to others must be *recently certified*. For example, to transfer the conservatee's bank accounts and stocks into your possession as conservator, you must provide to the bank, to the securities broker, or directly to the company that issued the stock (or to a special kind of agent for the company, called a transfer agent), a copy of your Letters certified within the last 60 days. Because you must pay a fee for each certified copy, don't order more than you expect to use right away. Order updated certified copies from the court clerk whenever you need additional copies.

EXAMPLES OF ACTIVITIES FOR WHICH YOU NEED CERTIFIED COPIES OF YOUR LETTERS

- To enter a change of address for the conservatee at the post office
- To open a bank account for the conservatee's money
- To transfer the conservatee's bank accounts, stocks, mutual funds, and bonds in one or more accounts into your name as conservator
- To get into the conservatee's safe deposit box and to open a new safe deposit box in your name as conservator
- To prove to doctors and hospitals that you are authorized to **consent** to the conservatee's medical treatment, if the court has given you that authority
- To sign agreements such as leases and home-care contracts for the benefit of the conservatee
- To request information about the conservatee's affairs from government agencies and private businesses, pension plans, and others

- To apply for government or other benefits on behalf of the conservatee
- To ask lawyers (other than your own lawyer) about many kinds of legal matters concerning the conservatee
- To gather the conservatee's assets from anyone who has been holding them for safekeeping

C. Working with Others Involved in the Conservatorship

Before making major decisions, discuss your plans with the conservatee, the other conservator (if there is one), your lawyer, and the conservatee's family if appropriate. There may be people involved with the conservatee who have legal rights to object to your actions. A few minutes of discussion may prevent hours of dispute and unnecessary legal costs later.

If there is another conservator, it is important that the two of you work together and communicate frequently. Since disagreements between conservators can harm the conservatee, a judge may replace one or both conservators if they can't get along.

D. Working with Your Lawyer

Communication between you and your lawyer is very important. Set up a procedure for keeping each other informed about the conservatorship and what each of you is doing. You and your lawyer should decide early on which of you will be responsible for various conservatorship tasks such as

- Gathering information about the conservatee and his or her assets or business affairs
- Seeing that the persons who have the right to be advised of certain actions and court proceedings are in fact notified in a timely way
- **Recording** Letters of Conservatorship
- Paying certain expenses
- Keeping records of the conservatee's financial transactions
- Keeping track of when certain things must be done

It's a good idea to ask your lawyer to give you copies of all papers he or she files with the court in the conservatorship, and copies of all but the most routine correspondence with third parties that comes into or goes out of the lawyer's office concerning the conservatorship.

Your lawyer is a valuable resource during the conservatorship. You should check with your lawyer before taking significant actions that affect the conservatee or his or her property. Many such actions require a judge's approval before you take them. For example, you should consult with your lawyer ahead of time if you wish to

- Move the conservatee to a new home or to a different kind of treatment or **care facility**
- Sell the conservatee's home or other real estate
- Make gifts of the conservatee's property or attempt to change the conservatee's will or estate plan
- Make a major medical decision for the conservatee
- Invest the conservatee's property, or change investments the conservatee made before your appointment as conservator
- Borrow money on behalf of the conservatee
- Become involved in a lawsuit on the conservatee's behalf

4. Conservators Who Live Out of the Area

If you live in a different county or state than the conservatee, the judge must be sure that you can carry out your duties as conservator from that distance. The court expects you to be as good a conservator as if you lived near the conservatee.

See Chapter 4, Section 10, for helpful information for a conservator of the person who does not live in the conservatee's area.

5. The Conservatee's Rights

When a person becomes a conservatee, he or she does not necessarily lose the right to take part in important decisions affecting his or her property and way of life. All conservatees have the right to be treated with understanding and respect and to have their wishes considered. They have all basic human rights as well, and the right to be well cared for by you.

The conservatee has the right to ask questions and to express concerns and complaints about the conservatorship and your actions as conservator. The conservatee may ask the court to review your handling of the conservatorship if disputes can't be worked out between you. Even if the conservatee does not take direct action, the court will periodically send a person, called a **court investigator**, to see the conservatee, to inquire about his or her circumstances and desires, and to advise the conservatee of his or her rights. The court may also appoint a lawyer to represent the conservatee.

THE CONSERVATEE'S RIGHTS

The conservatee generally keeps the right to

- Directly receive and control his or her salary
- Make or change a will
- Marry, unless a judge has determined he or she does not have the capacity to do so
- Receive personal mail
- Receive visits from family and friends, unless a judge has ordered restrictions on a person's visits or other contact with the conservatee
- Be represented by a lawyer
- Ask a judge to change conservators
- Ask a judge to end the conservatorship
- Vote, unless a judge decides the conservatee isn't capable of exercising this right

- Control personal spending money, called an **allowance**, if the judge has authorized you to pay it directly to the conservatee
- Make his or her own medical decisions, unless a judge has taken away that right and given it to you
- Enter into business transactions, to the extent reasonable to provide the necessities of life to the conservatee or to his or her minor children
- Engage in other activities the court expressly allows him or her to do, at the time of your appointment, or a later time following a court hearing on a request for authority to engage in the activity

If the conservatee is a patient in a board-and-care home, nursing home, or other care facility, a state law called the Patient's Bill of Rights applies. This law lists a patient's personal, social, financial, and medical rights in the facility, including the right to privacy. As a patient, a conservatee must be given a copy of this Bill of Rights when he or she is admitted to the facility, and it must be posted in an obvious place in the facility.

6. Duty to Notify the Court of Possible Changes in the Conservatee's Marriage or Domestic Partnership

The law gives the husband or wife of a proposed conservatee, or the **domestic partner** (as that term is defined in the Family Code) of an unmarried conservatee, the second highest priority of appointment as conservator, behind only the person selected by the proposed conservatee. However, that high priority may no longer be appropriate if the relationship has ended or has changed in any significant way.

The law requires a proposed conservatee's spouse or domestic partner who is seeking to be appointed conservator to reveal in the petition for appointment of conservator that the relationship has ended or that certain steps have been taken to significantly change it. In that event, the court may appoint the petitioning spouse or domestic partner, but only on a stronger than usual showing that the appointment would be in the conservatee's best interests despite the change in the relationship between the conservator and the conservatee.

The same concerns exist when the marital relationship or the domestic partnership between a conservator and a conservatee ends or changes after the spouse or domestic partner has been appointed. In that event, the law requires that the

conservator spouse or domestic partner fully disclose to the court and to any other conservator that his or her relationship to the conservatee has ended or has changed.

A conservator who is not married to the conservatee and is not the conservatee's domestic partner also needs to know when the conservatee's marriage or domestic partnership with someone else has ended or has significantly changed. In that event, the law requires the spouse or domestic partner of the conservatee to fully disclose to the conservator that the relationship has ended or has changed.

A. When You Are Married to or the Domestic Partner of Your Conservatee

If you are the husband or wife of your conservatee, or his or her domestic partner, you must give written notice to the probate court in the conservatorship proceeding (and must mail a copy of the notice to the conservatee and to any other conservator) if you become a party to an action for legal separation, for dissolution of your marriage, or for an adjudication of nullity of your marriage, or if your domestic partnership is terminated in any of the ways provided in the law. You must do this within 10 days of the date the action concerning your marriage was filed or the domestic partnership was terminated.

On receipt of the notice, the probate court may set a hearing and require you to show cause why your appointment as conservator should not be ended and a new conservator appointed. The court may also appoint a lawyer for the conservatee to protect his or her interests at the hearing. You would not automatically be removed as conservator after the hearing, but would have to show, by a higher than usual amount of proof, that your continued appointment as conservator would be in the best interests of the conservatee despite the action concerning your marriage or the termination of your domestic partnership.

B. When Your Conservatee Has a Spouse or Domestic Partner Who Is Not a Conservator

If you are not the spouse or the domestic partner of your conservatee, but he or she is married or has a domestic partner, the spouse or the partner must disclose to you and to any other conservator that any of the actions mentioned in Section 6(A) concerning the marriage have been filed, or that the domestic partnership has been terminated, within the same 10-day period. When you or the conservator of the estate receive this disclosure, you should immediately consult with your lawyer to help you decide what steps, if any, should be taken to protect your conservatee. If there is more than one conservator or lawyer, all of you should work closely together. **L**

Many, if not most, domestic partnerships are between persons of the same sex. However, you should be alert to the possibility of a domestic partnership between elderly persons of the opposite sex. An unmarried man and an unmarried woman can enter into a domestic partnership if either is over the age of 62 and either is eligible for social security, old-age insurance, or Supplemental Security Income (SSI) benefits for aged individuals (the minimum age for the latter is 65).

7. Changing Conservators or Ending the Conservatorship

When will your responsibilities as conservator end? They may end when the conservatee dies, when a judge ends the conservatorship, or when a judge appoints someone else as conservator in your place. In any case, you must wind things up before a judge will release you from your conservatorship duties.

The conservatorship will end when the conservatee dies. It may also end when a judge decides it is no longer needed, for example, because the conservatee has become able to handle his or her own affairs or because the assets of the **conservatorship estate** have been used up for the conservatee's care.

The conservatorship may continue, but with a new conservator. This happens when the first conservator dies or resigns. It may also happen because a judge has withdrawn the first conservator's appointment and has replaced him or her by appointing a successor conservator.

See Chapter 8 for more information about the end of a conservatorship or a change in conservators.

2

TEMPORARY CONSERVATORSHIP

Taking Care of the Conservatee's Immediate Needs

A judge may appoint a **temporary conservator** to take care of the conservatee's immediate needs until a permanent conservator can be appointed. A temporary conservator may also be appointed to fill in between permanent conservators, if, for example, the permanent conservator dies or the judge has ordered his or her **removal**. The judge will set a specific date on which the temporary conservatorship will end.

A temporary conservator may be a conservator of the person, conservator of the estate, or both. He or she arranges for temporary care, protection, and support of the conservatee and protects the conservatee's finances and property from loss or damage until a permanent conservator can be appointed.

For example, a man's health may have gotten so bad that he can't do routine chores. His home may have become so dirty, cluttered, and hazardous that the authorities will not let him continue to live there. A temporary conservator may be appointed to make immediate arrangements for handymen, contractors, or a cleaning service to fix the hazards, clean the home, and haul away accumulated trash so the man can stay in his home safely.

A friend may notice that an elderly woman is being persuaded to give away large sums of money. A temporary conservator may be needed immediately to protect and manage her finances so that no one takes advantage of her until a permanent conservator can be appointed.

1. Specific Ending Date for Temporary Conservatorships

While a permanent general conservatorship continues until the conservatee dies or a judge officially ends it, a temporary conservator is appointed only for a fixed time period, usually 30 to 60 days, and only until a permanent conservator is appointed or the **petition** for permanent appointment is denied. The **Letters of Temporary Conservatorship**, or **temporary Letters**, will show the exact date when the temporary conservatorship ends. Appendix F, at the back of this handbook, contains a blank copy of temporary Letters.

2. Restrictions on Moving the Conservatee Out of His or Her Home

A temporary conservator of the person may not move the conservatee from his or her home without a judge's prior approval (except in the case of an emergency). Because moving is a major and often traumatic change in a person's life, particularly for an elderly person, the temporary conservator must persuade a judge that the conservatee will be permanently harmed if he or she isn't moved.

Before making a decision, the judge may ask a court investigator to speak with the conservatee to see how he or she feels about the move. If the conservatee doesn't want to move, he or she has the right to be represented by a lawyer at the court hearing, and the court may appoint a lawyer for the conservatee.

Emergencies What if the condition of the conservatee's home is so dangerous that it is unsafe to live in? Or what if a doctor advises the temporary conservator that the conservatee may die if he or she isn't put in the hospital for immediate medical treatment?

In these kinds of emergencies, the temporary conservator may move the conservatee. But on the very next day that the court is open after the move, the conservator must file a request asking the court to approve the move. The conservatee has the right to be represented by a lawyer when the judge considers the request.

The temporary conservator may move the conservatee without a judge's prior approval only in these specific emergencies:

- The temporary conservatee's home isn't fit to live in.
- The conservatee's doctor advises the temporary conservator that the conservatee may die or be seriously disabled if he or she isn't hospitalized immediately.
- The conservatee's doctor says that the conservatee needs to be hospitalized for immediate treatment to relieve severe pain.
- The conservatee gives an informed consent to removal to a health facility for treatment.
- The conservatee is moved from one health facility to another for medical care.

3. Restrictions on Selling the Conservatee's Home

Without prior court approval after a hearing, a temporary conservator is not allowed to sell the conservatee's home or, if the conservatee is a renter, to give up the conservatee's lease.

The conservatee must be personally notified when a temporary conservator asks for a judge's permission to sell or give up the conservatee's home. The judge won't give approval unless it's clear that the conservatee can no longer live at home and serious personal or financial harm will occur if these steps aren't taken immediately.

4. Restrictions on Selling or Giving Away the Conservatee's Assets

A temporary conservator may not sell or give away an estate asset without a judge's prior approval. The conservator must prove to the judge that the property has to be sold to prevent serious financial harm. For example, the conservatee may own a summer cottage that was damaged in an earthquake. It's empty and can't be rented, and no insurance company will insure it.

Even if an asset must sometimes be sold in an emergency during a temporary conservatorship, the temporary conservator should be especially careful not to sell or dispose of any of the conservatee's personal belongings. **L**

5. Inventorying the Estate and Accounting to the Court

A temporary conservator of the **estate** must prepare and file an **Inventory and Appraisal** within 90 days of appointment unless he or she files a **final account** as temporary conservator within that time. The Inventory and Appraisal lists the conservatee's assets collected by the temporary conservator and values them as of the date of the temporary conservator's appointment.

A temporary conservator of the estate who is not appointed permanent conservator must file a final account of the conservatee's estate collected by the conservator within 90 days after the temporary conservatorship ends, unless the court changes the filing date. If the temporary conservator is later appointed permanent conservator, the accounting for the temporary conservatorship may be included in the first accounting for the permanent conservatorship, but no later than a year after appointment of the permanent conservator.

See Appendix C and Chapter 5, Section 6, for more information about the Inventory and Appraisal. See Appendix D and Chapter 5, Section 8, for more information about the accounting.

3

LIMITED CONSERVATORSHIP

Assisting a Person Who Has a Developmental Disability

A **limited conservator** may be appointed for an adult with a **developmental disability**. Limited conservatorships are set up to assist developmentally disabled adults who are unable to provide for all their personal or financial needs. Because the conservatee's growth and development have been impaired or delayed, a limited conservatorship attempts to encourage further development wherever possible. A **limited conservator's** duty is to help the **limited conservatee** develop maximum self-reliance and independence.

The conservator arranges

- Training in basic living skills
- Education
- Medical care and counseling
- Social, recreational, and work opportunities

Special services are available for people with developmental disabilities. These resources are discussed in Section 6 of this chapter.

Limited conservatorships differ from general conservatorships in the following ways:

- When a judge is asked to appoint a limited conservator, the proposed conservatee must have a lawyer, either chosen by the conservatee or appointed by the court.
- When a petition for appointment of a limited conservator is filed, an **assessment** of the proposed limited conservatee must be conducted by a California regional center for the developmentally disabled, and a confidential report of the assessment must be filed with the court before the hearing.
- Unless a judge authorizes it, the limited conservator does **not** have the powers to
 - Decide the residence of the conservatee
 - Gain access to the confidential records and papers of the conservatee
 - Control the conservatee's social and sexual relationships
 - Control the conservatee's financial resources
 - Make decisions concerning the conservatee's education
- The conservatorship ends when the conservator dies.

As a limited conservator, you also should be familiar with the information in the rest of this handbook. If you have questions about whether general conservatorship information applies to limited conservatorships, contact your lawyer. **L**

1. Limited Conservator's Authority

As a limited conservator, you have the authority to do **only** those things that were laid out by the judge when you were appointed. The judge has decided which responsibilities the conservatee will keep and which ones you will have. Your **Letters of Conservatorship** and the judge's order appointing you state what you are allowed to do.

By contrast, a general conservator is empowered to act in areas that aren't necessarily specified in his or her Letters. The Letters of a general conservator specify only special powers or limits set by the judge. It is important to recognize this difference in using the information in other chapters of this handbook.

To find out more about any of your responsibilities as a limited conservator, look in this handbook to find that responsibility for general conservators. For instance, if you have been charged with deciding where the limited conservatee will live, look at Chapter 4, Section 2. If you are authorized to decide about medical care, read Chapter 4, Section 3. But remember: there may be differences in the way these situations should be handled for a limited conservatee. **L**

Since a limited conservatee is considered to be growing and developing, always try to make choices that will enhance self-reliance and independence. Your choices for a 25-year-old limited conservatee may differ from your choices for an elderly person in bad health, for example.

Authority of Limited versus General Conservator

Limited conservator The judge gives a limited conservator authority to take care of specific aspects of the conservatee's life and no others; the limited conservator's Letters list the exact areas in which he or she is authorized to act.

General conservator The general conservator has authority to take care of a broad range of the conservatee's needs; the general conservator's Letters won't list all the many areas in which he or she is authorized to act but will specify only special powers or limits on that authority.

2. Limited Conservator of the Person

A limited conservator of the person has only the authority specified in his or her Letters. A judge may authorize a limited conservator of the person to

- Decide where the conservatee will live
- See mail, medical records, test results, reports, and all other confidential records and papers relating to the conservatee

- Consent or withhold consent to the conservatee's marriage
- Be the only person who may **consent to medical treatment**
- Restrict the conservatee's social and sexual contacts and relationships
- Make all decisions about the conservatee's education
- Restrict the conservatee's right to make contracts

A. Authority to Control Contracts

The authority of a limited conservator of the person to control the conservatee's contracts is unique to limited conservatorships. In general conservatorships, this authority is given to the conservator of the estate.

The authority of the limited conservator of the person is to control the conservatee's authority to make contracts. A limited conservatorship of the **estate** is still required if you, as limited conservator, need to enter into contracts yourself for the benefit of the conservatee that bind or obligate his or her estate, or if you need to manage property of the conservatee. If, on the other hand, the conservatee controls his or her own contracts and retains management powers over his or her financial affairs, there may be no need to appoint a limited conservator of the estate.

B. No Authority to Sterilize a Limited Conservatee

Even if you have been given authority to consent to medical treatment for the limited conservatee, you are not allowed to have the conservatee sterilized. Only a judge may make that decision. If any proposed medical treatment or surgery may result in sterilization, get legal advice. **L**

3. Limited Conservator of the Estate

A limited conservator of the estate has only the authority specified in his or her Letters. If you have been appointed conservator of the estate, the information about estate conservatorships in other parts of this handbook applies to you.

4. Court Supervision of a Limited Conservatorship

A court investigator will visit the limited conservatee one year after you were appointed and every two years after that. The investigation will be the same as for general conservatorships and is described in Chapter 7, Section 1(B). The investigator will recommend to the judge whether to continue the limited conservatorship.

5. Ending a Limited Conservatorship

A limited conservatorship continues until one of the following occurs:

- The limited conservator dies.
- The limited conservatee dies.
- A general conservator is appointed.
- A judge ends the limited conservatorship.

If the conservatee dies, be sure to notify the court by sending a letter to the court investigator. If you are a limited conservator of the estate, contact your lawyer for help preparing an accounting, if required, or a report to file with the court. **L**

The conservatorship and your responsibilities under it won't end until you have done these things and a judge **discharges** you.

6. Regional Center Resources

In California, people with developmental disabilities have a right to services they need to live independent, productive, normal lives. The state must provide services for each person with a developmental disability at each stage of his or her life, regardless of age or degree of handicap. These services are available whether the person is under a general conservatorship, a limited conservatorship, or no conservatorship at all.

State services are provided by **regional centers**. These nonprofit corporations have contracts with the California Department of Developmental Services to serve people with developmental disabilities in a geographical area. To find the regional

center for your area, see Appendix B, “How to Find and Use Community Resources,” at the back of this handbook.

The appropriate regional center must be notified when a court is asked to appoint a conservator for someone with a developmental disability. In most instances, the regional center must assess the proposed conservatee’s needs and report the results to the court before the conservatorship hearing.

The regional center can offer a lot of help. Regional centers provide some services directly, including assessment, **case management**, planning a program of care for the conservatee, and advocacy for the conservatee’s rights. Regional centers also must help you get other services needed by the conservatee. If the center staff can’t find an agency to provide the service without charge, the center is supposed to pay for the service. See “Regional Center Services” later in this chapter.

Additional Resources

Chapter 4, Section 7(G): Day programs for people with developmental disabilities.

Chapter 4, Section 7(M) and (N): Work training and educational programs, respectively.

See also Appendix B, “How to Find and Use Community Resources.”

REGIONAL CENTER SERVICES

Regional centers arrange for or provide a number of services to people with developmental disabilities, even those who are not conservatees. Services include

- Diagnosis, evaluation, and treatment
- Personal care, day care, and special living arrangements
- Physical and occupational therapy
- Job training and education
- Information about employment opportunities in sheltered settings

- Services to help people with developmental disabilities work in the general community
- Mental health services
- Recreation
- Individual and family counseling
- Protective services
- Information and referral services
- Transportation to and from services
- **Respite care**
- Advocacy to help people with developmental disabilities get and keep government benefits

4

CONSERVATOR OF THE PERSON

Caring for the Conservatee's Personal Needs

As a **conservator of the person**, you are responsible for making sure that the conservatee's physical health, food, clothing, shelter, safety, comfort, recreation, and social needs are met. Your goal is to provide the best quality of life possible for the conservatee. You must treat the conservatee with respect, making choices that encourage this person's self-esteem and dignity.

Special Note for Limited Conservators

If you are a conservator of the person in a **limited conservatorship**, the order appointing you and your Letters of Conservatorship will specify those areas you are allowed to manage.

Read Chapter 3 on limited conservatorships and then look through this chapter to read about the particular areas you are authorized to handle.

SUMMARY OF TIMELINE AND RESPONSIBILITIES FOR A CONSERVATOR OF THE PERSON

- Step 1** You are appointed and qualify as conservator of the person.
- Step 2** Obtain your Letters of Conservatorship and use certified copies of these Letters to notify the conservatee's doctors, health insurers, and other interested parties that you are authorized to act on the conservatee's behalf.
- Step 3** Figure out what help the conservatee needs and draw up a plan for meeting those needs (your plan of conservatorship). Your court may require you to file this plan or a status report concerning the conservatee's present condition and circumstances. Check with your lawyer to see what requirements your court has. **L**
- Step 4** Take care of the conservatee's urgent needs.
- Step 5** Arrange for the conservatee's
- Living situation
 - Health care
 - Meals
 - Clothing
 - Personal care
 - Housekeeping
 - Transportation
 - Recreation
- Step 6** You will serve as conservator until a judge officially releases you from your duties. This may happen if you resign and the court accepts your resignation, the conservatee dies, a judge replaces you with a new conservator, or a judge decides the conservatee doesn't need a conservator any longer.

1. Getting Started

Once you have been appointed conservator of a person, you will need to take certain steps to qualify to serve and obtain your **Letters of Conservatorship** authorizing you to act as conservator. Next, you should give **certified copies** of your Letters to the conservatee's doctor, dentist, and other key people to let them know that you are handling the conservatee's personal affairs. Then you should evaluate the conservatee's abilities and needs and develop a plan for meeting your responsibilities on an ongoing basis. If you are represented by a lawyer, you should discuss all of the tasks involved and decide who will be responsible for each. **L**

A. Qualifying to Serve as Conservator of the Person

Once you have been appointed as either limited or **general conservator** of a person, you must qualify by

- Signing an acknowledgment that you received a statement of the duties and liabilities of the office of conservator, and also that you received a copy of this handbook. (This acknowledgment is on the official statement of a conservator's duties and liabilities, **Judicial Council** form GC-348, entitled *Duties of Conservator and Acknowledgment of Receipt of Handbook*. A copy of this form is included in Appendix F, at the back of this handbook.)
- Signing an oath, also called an affirmation, that you will perform your duties as conservator according to law. (This affirmation is on Judicial Council form GC-350, *Letters of Conservatorship*.)
- Satisfying any other requirements that your local probate court may have.

See Chapter 1, Section 6, concerning the duties of a spouse or domestic partner of a conservatee when there are possible changes in the conservatee's marital or domestic partnership status.

B. Obtaining and Using Letters of Conservatorship

When you have qualified, you must obtain your Letters of Conservatorship from the court clerk's office. The Letters authorize you to act as conservator and are proof to others of your authority.

You will often need certified copies of your Letters to prove that you are authorized to act on behalf of the conservatee. For example, doctors, hospitals, health insurance companies, and nursing homes may not honor your requests on the conservatee's behalf until they have seen certified copies of your Letters.

See Chapter 1, Section 3, for more information about qualifying, Letters of Conservatorship, and obtaining certified copies of your Letters.

C. Assessing the Conservatee's Needs

Helping the conservatee stay self-reliant and active requires different forms of assistance for every individual. The conservatee's emotional and physical needs must be taken into account. Even if you've been close to the person you are going to help, now that you are conservator, take a fresh look at his or her needs and find out what services are available to meet them.

Chapter 6 includes a worksheet to help you assess the conservatee's needs. You also may want to have a professional assist you; check with the social work department of your local hospital, a **regional center**, or the **court investigator** to get a referral to a community-based agency that provides **assessment** services. If there is a fee for this assessment service, the court may allow estate funds to be used to reimburse you for the cost. **L**

D. Working with the Conservator of the Estate

You need to find out what financial resources are available for taking care of the conservatee. If someone else, such as a **conservator of the estate** or a **trustee**, is handling the conservatee's property, the two of you must work together. Talk with this person to be sure you make arrangements for care that the conservatee can afford. This is important because you may have to pay out of your own pocket for expenditures that were not approved by the person who handles the conservatee's finances.

E. Working with the Conservatee

Help the conservatee do as much as possible for himself or herself, and let the conservatee have as much independence as he or she can handle. You should involve the conservatee as much as possible in your decisions. Even seriously impaired people can choose the color of their clothing or a type of hand lotion, for example. When you must decide for the conservatee, try to make choices that respect the conservatee's stated preferences, personal independence, dignity, and lifestyle.

Remember, though, that in the end, you are the decision maker, and the court will hold you responsible.

F. Developing Your Plan of Conservatorship

Chapter 6, Section 1, of this handbook explains how you can prepare a plan for the care of your conservatee and the value of such a plan. Whether you are conservator of the person, conservator of the estate, or both, the plan will be extremely useful in helping you identify the conservatee's needs and keep track of all your duties. Some courts require conservators in all cases to prepare formal written plans and to **file** them with the court, and all courts may direct preparation and filing of formal plans in some cases. For example, a court may order a formal plan when the judge believes that the conservatee's estate will be sufficient to support him for the rest of his life only if the conservator makes specific plans to meet that goal. Whether or not the court directs you to prepare and file a formal **conservatorship plan**, it is recommended that you prepare and maintain one for your own use, at least informally. Speak with your lawyer about your court's specific requirements. **L**

It is also a very good idea to review and adjust your plan periodically, particularly if you are conservator of the estate as well as conservator of the person. Periodic review and adjustment is useful because changing financial conditions or other unexpected events can affect the estate. A conservatee's daily needs are also likely to change over time. For more information, read Chapter 6, Section 2.

G. Keeping the Court Informed of Address Changes

If the conservatee's residence address or telephone number changes after your appointment, you must promptly notify the court of the change by completing and delivering to the court, in person or by mail, a form notice of the change. A sample of this form is included in Appendix F, at the back of this handbook. It is Judicial Council form GC-080, called *Change of Residence Notice*.

Your lawyer will have, or can get, copies of the change-of-address form. Your lawyer will prepare it and will arrange for its delivery to the court, so you must be sure your lawyer is informed before the conservatee's residence address or telephone number is changed. **L**

If you don't have a lawyer, you can get copies of the form from the court, or you can get them from the other sources described in Appendix F. Your court may impose a time limit for you to give the information to the court. The Superior Court of Los Angeles County, for example, requires that it be supplied within 30 days of the date of the change.

You must notify the court of any change in your address or telephone number if you are representing yourself. Your court may also require that you provide this information even if you are represented by a lawyer, or it may require that you provide current statements of your address and telephone number, and those of the conservatee, with every **accounting**, even if the information has not changed. The court may have a local form for this purpose. If not, you may provide the information by letter. Even if it is not a requirement of your court, it is a good idea to advise the court of any changes in your address and telephone number. Advise the court investigator as well.

Include the conservatorship case name and the court's case number in any letter you send to the court. Address your letter to the clerk of the court, not to the judge. If you are in a large county, address it to the probate clerk. Send it to the address of the court where your appointment hearing was held. Send a copy of your correspondence to the court investigator's office. That office will usually be in the same location as the court, but you should check to make sure.

2. Deciding Where the Conservatee Will Live

One of your most important duties as conservator of a person is to decide where the conservatee should live, unless the judge has told you that you may not move the conservatee to a new home. A conservatee must remain in California unless a judge says otherwise.

It's usually best for the conservatee to stay in his or her home if help and equipment are available and affordable to make the residence safe and comfortable. But wherever the conservatee lives, you are responsible for seeing that the home is safe and comfortable and allows the conservatee as much independence as possible.

A. Arranging for the Least Restrictive, Appropriate Home Setting

When you are deciding where the conservatee will live, remember that California law requires you to choose the “least restrictive, appropriate” home available that is in the conservatee’s best interests and meets his or her needs.

To find the least restrictive, appropriate living situation, choose a place that offers the services that the conservatee needs to live as independently as possible. In some cases, the conservatee’s home may be the least restrictive, appropriate setting with help from an **aide** and the use of community services. The conservatee may have more freedom and feel less threatened at home than in any other setting. However, you should also consider whether the conservatee has enough contact with other people and receives enough mental stimulation at home.

On the other hand, consider a frail conservatee who can walk but wanders and could be hurt by a fall. In a care facility that has adequate staff and a safe environment, this person can enjoy the freedom to walk around.

If the conservatee suffers from **dementia**, a form of mental impairment of which Alzheimer’s disease is an example, you may have to move him or her to a special kind of care facility, known as a **secured-perimeter residential care facility**. This is a care facility that specializes in the care and treatment of people with dementia. It is designed to prevent patients from wandering off the premises while impaired. If you want to arrange for this kind of placement, you must first ask the court for its permission, after a hearing for which the court must appoint a lawyer for the conservatee. If you have been advised or believe that the conservatee may be suffering from dementia, you should talk to your lawyer before you make any placement decision. **L**

In deciding where the conservatee should live, consider the conservatee’s finances, desires, tastes, lifestyle, care or personal assistance needs, and medical condition. Most people prefer to stay in their own homes rather than move into a care facility, but individual preferences vary. Determine where and how the conservatee would like to live, and see if those wishes make sense in view of the conservatee’s needs and finances. Remember to check with the person who handles the conservatee’s finances to find out what the conservatee can afford.

WAYS TO HELP THE CONSERVATEE LIVE AT HOME AS INDEPENDENTLY AS POSSIBLE

- If the conservatee owns his or her home, there are ways to borrow against it to pay for extra help needed to keep the conservatee at home. There also are ways to sell the home and allow the conservatee to live there as a tenant. Chapter 5, Section 7(G), explains these alternatives.
- Hire part-time or full-time in-home aides to prepare meals, do laundry, help the conservatee take medicine, and perform other personal-care tasks.
- Make changes to the building such as replacing stairs with ramps or widening doorways to accommodate a wheelchair, walker, or hospital bed. You may have to move the conservatee temporarily during major cleaning or repairs.
- Have the conservatee's home and yard thoroughly cleaned, to get rid of debris and unsanitary conditions.
- Remove fire hazards and buy fire extinguishers and smoke detectors.
- Have the locks changed or a security system installed, or both.
- Contact the gas, electricity, water, garbage, and telephone companies to continue service.
- If the conservatee is a renter, ask the landlord to make needed repairs.
- Ask nearby family members, friends, and neighbors to look in on the conservatee and help with shopping or take the conservatee to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.

B. Moving the Conservatee to a Care Facility

The time may come when it is necessary because of physical or financial limitations to move a conservatee from his or her own home. This is a drastic step and should not be taken simply for the convenience of others. The decision must be based on the conservatee's needs, preferences, and best interests. Avoid making last-minute decisions by thinking through this possibility in advance.

If you decide that the conservatee can no longer live at home, it is your responsibility to find the most appropriate living situation. To help you decide, do the following:

- Work with the conservator of the estate to figure out how much the conservatee can afford to pay for care, housing, and other living expenses.
- Speak with the conservatee and his or her doctors and relatives to decide what kinds of help the conservatee needs each day. You also might consult an agency that can help with this assessment.
- Decide what type of facility can best take care of the needs you have identified.
- Contact a senior center or the local long-term care **ombudsman** program of the California Department of Aging for recommendations (see Appendix B, “How to Find and Use Community Resources,” at the back of this handbook).
- Visit the recommended care facilities and use the “Checklist for Selecting a Care Facility,” later in this chapter.

The more care a facility offers, the more it costs to live there. For example, skilled-nursing facilities are much more expensive than board-and-care homes.

TYPES OF CARE FACILITIES

- *Board-and-care facilities* provide a room, maid service, and meals. Sometimes they offer recreational opportunities or transportation assistance.
- *Intermediate-care facilities* provide a room; meals and mealtime assistance; and help with dressing, bathing, grooming, and other personal hygiene and with medication management and other personal-care needs. Nursing care is available every day, but not around the clock.
- *Skilled-nursing facilities* provide the services of an intermediate-care facility plus physical and occupational therapy and 24-hour-a-day nursing care, supervised by a doctor.
- *Secured-perimeter* or locked facilities provide the same types of services as board-and-care, intermediate-care, and skilled-nursing facilities, with the addition of a security system that prevents residents from leaving the facility. **Secured-perimeter facilities** are designed for people with dementia who

otherwise might wander off the grounds and become lost while confused. The security systems range from simple locked doors or gates to a complex alarm system. These facilities can be chosen only when the conservatee needs this safety precaution and only when the court has given the conservator specific authority to place the conservatee in this type of facility.

- ***Continuing-care retirement communities***, sometimes called life-care communities, offer a variety of living situations and levels of care. The community may have independent apartments or cottages with kitchens as well as a skilled-nursing facility. There may be a dining room to serve residents in the independent-living units, or meals may be delivered to residents. The community may offer maid service and other assisted-living services.

Care facilities must be licensed by appropriate state agencies. A license means that the facility meets minimum safety standards. Licensing inspectors visit the facility each year, and they respond to complaints about the care facility. If you choose a care facility, be sure it's licensed.

The California Department of Social Services licenses board-and-care homes. The California Department of Health Services licenses intermediate-care and skilled-nursing facilities.

The Continuing Care Contracts Program of the California Department of Social Services also must certify a continuing-care facility whenever it promises to provide **life care** (usually personal care and health care) for more than one year in exchange for an entrance fee, monthly fees, or both. Check with this office before signing up with a continuing-care facility, to make sure the facility is certified. It is very important to check the facility's financial stability, to make sure it is financially strong enough to stay in operation long enough to fulfill its long-term promises.

For telephone numbers and other information regarding licensing and certification agencies for care facilities, see Appendix B, "How to Find and Use Community Resources," at the back of this handbook.

With respect to care facilities, remember:

- As with any change of the conservatee's residence address or telephone number, when you move the conservatee to a care facility for the first time, or when you move him or her to a different care facility, you must complete and deliver to the court Judicial Council form GC-080, ***Change of Residence Notice***, referred to in Section 1(G).

- You may not move the conservatee to a facility outside California without first getting a judge's approval. The petition you must file for this approval is Judicial Council form GC-085, *Petition to Fix Residence Outside the State of California*. The court's order approving the move is prepared on Judicial Council form GC-090, *Order Fixing Residence Outside the State of California*. Blank copies of both forms are included in Appendix F, at the back of this handbook.
- You need a judge's approval before you may sell the conservatee's home or former home. This is in addition to the court's involvement in the sale process itself. See Chapter 5 for more information about selling a conservatee's property.

CHECKLIST FOR SELECTING A CARE FACILITY

If you decide that the most appropriate, least restrictive setting for the conservatee is a care facility, visit recommended facilities to decide which one to choose. The following questions will help you find out about the facility. Many of these questions are reprinted with permission from the American Association of Retired Persons. Most of them apply to skilled-nursing facilities, but you will find many of them useful in evaluating other kinds of care facilities as well.

GENERAL QUESTIONS

| YES | NO | Ask the Facility Administrator: |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility licensed by the appropriate state department? The license should be posted in an obvious place. (California Department of Social Services licenses board-and-care homes; California Department of Health Services licenses intermediate-care and skilled-nursing facilities). |
| <input type="checkbox"/> | <input type="checkbox"/> | If it is a skilled-nursing facility, is the administrator licensed by the state Board of Nursing Home Administrators? The license should be posted in an obvious place. |
| <input type="checkbox"/> | <input type="checkbox"/> | If the facility is advertised as a life-care or continuing-care facility, does it have a valid certificate of authority from the Continuing Care Program of the California Department of Social Services? |

CHECKLIST FOR SELECTING A CARE FACILITY

GENERAL QUESTIONS

| YES | NO | Ask the Facility Administrator (continued): |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Have there been any citations by the licensing authority? |
| <input type="checkbox"/> | <input type="checkbox"/> | If so, have the problems been corrected? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility certified to receive Medicare and Medi-Cal payments? Ask for a copy of the facility's last certification report. |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility offer rehabilitation therapies such as occupational, physical, and speech therapy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents allowed to wear their own clothes? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents allowed to decorate their rooms? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents allowed to keep some of their own possessions, including furniture? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a place for private visits with family and friends? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are the visiting hours convenient for residents and visitors? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is a list of residents' rights posted in an obvious place? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are the rooms well-ventilated? At what temperature are rooms kept? _____°F. |
| <input type="checkbox"/> | <input type="checkbox"/> | Can residents have a say in choosing roommates? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are social services available to residents and their families? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility have recreational, cultural, intellectual, or religious activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there group and individual activities? Ask to see a schedule of events. |
| <input type="checkbox"/> | <input type="checkbox"/> | Are activities offered for residents who are confined to their rooms? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there an activities coordinator on staff? |

CHECKLIST FOR SELECTING A CARE FACILITY

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents encouraged—but not forced—to take part in activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members assist residents in getting from their rooms to activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents encouraged to participate in activities outside the facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do residents have the opportunity to attend religious services and talk with clergy in and out of the facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are barber and beautician services available? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility provide transportation for residents? |
| | | Does each resident have: |
| <input type="checkbox"/> | <input type="checkbox"/> | A reading light? |
| <input type="checkbox"/> | <input type="checkbox"/> | A comfortable chair? |
| <input type="checkbox"/> | <input type="checkbox"/> | A closet? |
| <input type="checkbox"/> | <input type="checkbox"/> | A chest of drawers for personal belongings? |

YES NO

Ask Yourself:

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | If the facility is a locked or secured-perimeter facility, do you have the specific court authorization to place the conservatee in this type of facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility near the conservatee's family and friends? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility conveniently located on a bus route? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the atmosphere warm, pleasant, and cheerful? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a sense of fellowship among the residents? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility administrator courteous and helpful? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are staff members cheerful, courteous, and enthusiastic? |

CHECKLIST FOR SELECTING A CARE FACILITY

GENERAL QUESTIONS

| YES | NO | Ask Yourself (continued): |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members show residents genuine interest and affection? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members seem attentive to residents' needs? (If they are watching TV, for example, they may not be attentive to residents.) |
| <input type="checkbox"/> | <input type="checkbox"/> | Do the residents look well cared for and content? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members appear to treat residents with dignity and respect? (For example, do staff members knock before they enter residents' rooms?) |
| <input type="checkbox"/> | <input type="checkbox"/> | Do residents, visitors, and volunteers speak favorably about the facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility clean and orderly? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the temperature seem comfortable and the rooms well ventilated? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility reasonably free of unpleasant odors? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do bathing and toilet facilities offer adequate privacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a curtain or screen available to give each bed privacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a public telephone for residents' use? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is fresh drinking water within reach? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is suitable space available for recreational activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are tools and supplies provided for recreational activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a lounge where residents can talk, read, play games, watch television, or just relax away from their rooms? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility have a yard or outdoor area where residents can get fresh air and sunshine? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there wheelchair ramps? |

- | | |
|---|--|
| <input type="checkbox"/> <input type="checkbox"/> | Are toilet and bathing facilities easy for physically impaired residents to use? |
|---|--|

SAFETY QUESTIONS

| | | |
|------------|-----------|--|
| YES | NO | Ask the Facility Administrator: |
|------------|-----------|--|

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the furniture attractive, comfortable, and easy for physically impaired people to get into and out of? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there an automatic sprinkler system? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there portable fire extinguishers? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there automatic emergency lighting? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are the smoke detectors, automatic sprinkler system, and automatic emergency lighting in good working order? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there fire drills for staff and residents? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a smoking policy for staff, residents, and visitors? What is it? |

Are there nurse call buttons and emergency call buttons:

- | | | |
|--------------------------|--------------------------|---------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | At each resident's bed? |
| <input type="checkbox"/> | <input type="checkbox"/> | At each toilet? |
| <input type="checkbox"/> | <input type="checkbox"/> | At each bathing facility? |

| | | |
|------------|-----------|----------------------|
| YES | NO | Ask Yourself: |
|------------|-----------|----------------------|

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Are smoking policy rules observed? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility free of obvious risks, such as obstacles, hazards, and unsteady chairs? |

CHECKLIST FOR SELECTING A CARE FACILITY

SAFETY QUESTIONS

| YES | NO | Ask Yourself (continued): |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Are there grab bars in toilet and bathing facilities and on both sides of hallways? Ask to see the bathrooms. |
| <input type="checkbox"/> | <input type="checkbox"/> | Do bathtubs and showers have nonslip surfaces? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do all rooms open onto a hallway? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are exits clearly marked and exit signs illuminated? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are exit doors unobstructed and can they be unlocked from inside? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are doors to stairways kept closed? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility well lighted? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are hallways wide enough to allow wheelchairs to pass each other easily? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is an emergency evacuation plan posted in a prominent place? |

HEALTH SERVICE QUESTIONS

| YES | NO | Ask the Facility Administrator: |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | In case of medical emergencies, is a doctor available at all times, either on staff or on call? Ask for the names of doctors on staff or on call. |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility allow residents to be treated by doctors of their own choosing? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents involved in planning their own care? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is confidentiality of medical records assured? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the facility made arrangements with a nearby hospital for quick transfer in an emergency? |

CHECKLIST FOR SELECTING A CARE FACILITY

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Is emergency transportation available? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility have an arrangement with a dentist to provide residents with dental care on a routine basis or on an as-needed basis? Ask for the names of dentists who provide care for residents. |
| <input type="checkbox"/> | <input type="checkbox"/> | Are pharmaceutical services supervised by a pharmacist? Ask for the pharmacist's name. |
| <input type="checkbox"/> | <input type="checkbox"/> | Does a pharmacist maintain and monitor a record of each resident's drug therapy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents allowed to choose their own pharmacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has a separate room been set aside for storing and preparing drugs? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there at least one registered nurse (RN) or licensed vocational nurse (LVN) on duty day and night? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is an RN on duty during the day, seven days a week? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does an RN serve as director of nursing services? |
| <input type="checkbox"/> | <input type="checkbox"/> | If the conservatee requires special services such as physical therapy or a special diet, can the facility provide them? |
| YES | NO | Ask Yourself: |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the conservatee's doctor willing to visit the facility? |

MEAL QUESTIONS

- | | | |
|--------------------------|--------------------------|---|
| YES | NO | Ask the Facility Administrator: |
| <input type="checkbox"/> | <input type="checkbox"/> | Are at least three meals served each day? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are meals served at normal hours, with plenty of time for leisurely eating? Ask to see the meal schedule. |
| <input type="checkbox"/> | <input type="checkbox"/> | Are more than 14 hours scheduled between the evening meal and the next day's breakfast? |

CHECKLIST FOR SELECTING A CARE FACILITY

MEAL QUESTIONS

| YES | NO | Ask the Facility Administrator (continued): |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | May I visit the dining room during mealtime? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are nutritious between-meal and bedtime snacks available? What is served? _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Are special meals prepared for patients on therapeutic diets? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can visitors join residents at mealtime? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a charge for visitors' meals? |
| YES | NO | Ask Yourself: |
| <input type="checkbox"/> | <input type="checkbox"/> | Ask to sample a meal. Does the meal that is served match the posted menu? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents given enough food? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do the meals look appetizing? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the food taste good? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is food served at the proper temperature? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the dining area attractive and comfortable? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do residents who need help eating receive it, either in the dining room or in their own rooms? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the kitchen clean and reasonably tidy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is food that should be refrigerated left standing out on counters? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is waste properly disposed of? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do kitchen staff follow good standards of food handling? |

FINANCIAL QUESTIONS

YES NO

Ask the Facility Administrator:

What is covered by the basic monthly fee, and what isn't covered?

☐☐

Is there a list of fees for specific services that aren't included in the basic rate?

☐☐

Is there a refund for unused days that were prepaid?

☐☐

Is there a minimum period (sometimes called a private pay period) before the facility will accept Medi-Cal?

YES NO

Ask Yourself:

Does the contract between the resident and the facility clearly state:

☐☐

Costs?

☐☐

The admission dates?

☐☐

Services that will be provided?

☐☐

Discharge and transfer conditions?

How does the cost compare with that of other facilities?

C. Caring for the Conservatee in a Care Facility

If you move the conservatee to a care facility, it is still up to you to make sure that he or she gets proper health care, nutrition, social stimulation, grooming, and recreation. Visit the facility periodically. Review the conservatee's file with the nursing shift supervisor and speak with the doctors frequently to make sure the conservatee is being well cared for. If you think the conservatee isn't being cared for adequately or is being abused, contact the local long-term care ombudsman office for help.

For telephone numbers and other information regarding local long-term care ombudsman offices, see Appendix B, "How to Find and Use Community Resources," at the back of this handbook.

WAYS TO ENHANCE THE CONSERVATEE'S QUALITY OF LIFE AT HOME OR IN A CARE FACILITY

- Arrange a network of visitors. The more people who show concern, the happier the conservatee will be. Care facility staff are also often most attentive to those residents who have frequent visitors.
- If the conservatee has been active in a church or synagogue, arrange for congregation members or clergy to visit on a regular schedule.
- Decorate the area around the conservatee's bed with familiar objects. Care facility residents have the right to have personal belongings from home in their rooms.
- Place a bulletin board near the bed. Put up photos showing family and friends with the conservatee. Include photos of the conservatee at different ages and in happy times.
- Put diplomas, letters of appreciation that were written to the conservatee in earlier years, and other mementos on the bulletin board.
- Encourage family and friends to write letters and cards. Post them on the bulletin board and help the conservatee write back.
- Hire a part-time aide to help, to keep the conservatee company, or to take the conservatee on outings.

- Arrange for the conservatee to be taken out for activities such as day-care programs, described in Section 7(E) later in this chapter; entertainment; family gatherings; and beauty or barber services.
- Provide favorite foods and beverages.
- Provide a radio, stereo, television, or VCR, with a remote control if the conservatee can't move around easily. If the conservatee shares a room, provide earphones.
- Rent old movies with the conservatee's favorite stars and show them on the VCR.
- Provide ear plugs if the conservatee shares a room in a care facility.
- Arrange for a telephone with a private line.
- Arrange parties for the conservatee on birthdays and other special occasions. Have the conservatee act as host.
- Thank the conservatee's caregivers often.
- Nearby family members, friends, and neighbors often are willing to look in on the conservatee and help with shopping or take the conservatee to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.

3. Keeping the Conservatee Healthy

Often conservatees have health problems that require medical care. Special health problems might include Alzheimer's disease, cancer, or alcoholism. Learn about the conservatee's particular health conditions so you know what to expect and how to help.

You may wish to consult a support group or organization that provides information about the conservatee's specific disease or disability. The list of health information organizations at the end of Section 3(A) includes toll-free phone numbers for many of these organizations.

A. Securing Health Insurance

Every conservatee should have health insurance, if at all possible. Make every attempt to obtain health insurance for the conservatee, including dental insurance.

Find out what kind of coverage the conservatee already has. If he or she has no health insurance, or if present insurance is not adequate, find out if the conservatee is eligible for additional or alternative coverage. Possible sources of coverage, in addition to private insurers such as health maintenance organizations (HMOs), include Medicare, Medicare supplemental (Medigap) insurance, Medi-Cal, and veterans' or retired military health benefits. California Major Risk Medical Insurance is a last resource for persons who cannot obtain any other health insurance. It is limited in its annual and lifetime coverage. You should be careful not to cancel any existing health insurance coverage before you are certain you can replace it if you need to.

CAUTION Be careful if you are considering a change in medical insurance. Make sure any new medical plan will accept the conservatee and has the same or better benefits than the old plan.

The California Department of Aging sponsors the Health Insurance Counseling and Advocacy Program (HICAP), which can answer questions about health insurance for elderly people. You should discuss health insurance issues thoroughly with a HICAP health insurance counselor and with your lawyer before you commit to any course of action. **L**

For more information regarding health insurance, see Appendix A, "Guide to Medicare, Medi-Cal, and Other Health Insurance," at the back of this handbook.

For information about contacting HICAP, see Appendix B, "How to Find and Use Community Resources," at the back of this handbook.

If you are not handling the conservatee's money, contact the person who is. Find out what the conservatee can afford to spend on health insurance and who will file insurance claims, sign authorizations to release medical information, and keep the records necessary to make sure that all insurance payments are received.

HEALTH INFORMATION ORGANIZATIONS

| | | |
|--|-------------------------|---|
| AIDS and HIV Information (CDC National AIDS Hotline) | (800) 342-AIDS | www.ashastd.org/nah |
| Al-Anon | (Check local directory) | www.al-anon.org |
| Alcoholics Anonymous | (Check local directory) | www.alcoholics-anonymous.org |
| ALS Association (Lou Gehrig's Disease) | (800) 782-4747 | www.alsa.org |
| Alzheimer's Association Information Line | (800) 272-3900 | www.alz.org |
| American Cancer Society | (800) 227-2345 | www.cancer.org |
| American Diabetes Association | (800) 232-3472 | www.diabetes.org |
| American Heart Association | (800) 242-8721 | www.americanheart.org |
| American Kidney Fund | (800) 638-8299 | www.akfinc.org |
| American Lung Association | (800) 586-4872 | www.lungusa.org |
| American Parkinson Disease Association | (800) 223-2732 | www.apdaparkinson.com |
| Arthritis Foundation | (800) 283-7800 | www.arthritis.org |
| Brain Injury Association | (800) 444-6443 | www.biausa.org |
| HICAP (California Department of Aging, Health Insurance Counseling and Advocacy Program) | (800) 434-0222 | www.cda.ca.gov/html/ programs/hicap.htm |
| Huntington's Disease Society of America | (800) 345-HDSA | www.hdsa.org |
| Muscular Dystrophy Association | (800) 572-1717 | www.mdausa.org |
| National Kidney Foundation | (800) 747-5527 | www.kidney.org |
| National Multiple Sclerosis Society | (800) 344-4867 | www.nmss.org |
| National Parkinson Foundation | (800) 327-4545 | www.parkinson.org |
| Veterans Health Administration | (877) 222-VETS | www.va.gov/vbs/health |

B. Consenting to Medical Treatment

In most cases, the conservator and the conservatee share the right to make decisions about the conservatee's health care. In other words, you or the conservatee may authorize medical treatments. However, you may not arrange for a particular treatment if the conservatee objects to it.

If you think the conservatee is making a mistake by refusing treatment, talk to your lawyer about your options. **L**

Exclusive authority If you believe at some point that the conservatee has lost the ability to make sound medical choices, check with your lawyer about asking a judge to take away the conservatee's right to make medical treatment decisions and to give that right to you. **L**

If a judge is persuaded that the conservatee is not capable of making health care decisions, the judge may give you **exclusive authority** to make these decisions. If you or the person who petitioned for your appointment as conservator asked that you be granted exclusive authority when you were appointed and the court granted the request, your Letters will show that you have this authority. The request was made in the petition for your appointment.

You may also ask for exclusive authority at any time after your appointment if it wasn't granted at that time. To do so, you must complete, sign, and file Judicial Council form GC-380, *Petition for Exclusive Authority to Give Consent for Medical Treatment*. The court's order granting that authority is filed on Judicial Council form GC-385, *Order Authorizing Conservator to Give Consent for Medical Treatment*. Blank copies of both forms are included in Appendix F at the back of this handbook.

If the court grants your request for exclusive authority after your appointment, you would then need to get the court clerk to issue a new set of Letters showing that you have this authority. Your lawyer would prepare and file the petition, obtain the court's order, and see that you receive your new Letters. **L**

You should give certified copies of your Letters showing your authority to the conservatee's hospital, doctors, and care facility. Often these people and institutions will be willing to accept, or make, a copy of a certified copy for their files.

The authority to make health care decisions for the conservatee is very important and should not be taken lightly. Try to involve the conservatee in your decisions and respect his or her desires as much as possible. Talk with

the conservatee's family and friends to figure out how the conservatee would have wanted things arranged.

Treatment of dementia A conservator must obtain specific authorization from a judge to give exclusive consent for the treatment of dementia by the use of **psychotropic drugs**. These may be prescribed by a psychiatrist or by the conservatee's regular physician. It is important for the conservator to conduct a regular review of this type of treatment, with all the conservatee's doctors, to monitor carefully the effect that such drugs may have on the conservatee.

Spiritual healing If the conservatee practices a religion that relies on prayer alone for healing, the conservatee's religious beliefs must be respected. You should speak with your lawyer about how to observe these beliefs while you take care of the conservatee's health needs. **L**

Use of life support The decision to use or withdraw life support is a difficult and sensitive one. If you are faced with this issue, talk with your lawyer, the conservatee's doctor, the hospital, and family members to help you decide what to do. **L**

Advance health care directive Check to see if the conservatee has signed an **advance health care directive**, which includes individual health care instructions as informal as a handwritten note, and also a very formal document called a **durable power of attorney for health care**. Another commonly seen individual health care instruction is a one-page document, sometimes called a **living will**, that gives instructions concerning the conservatee's maintenance on life-support devices.

The conservatee may have chosen someone to make medical decisions if he or she becomes unable to make them. This person has the exclusive power to make the medical decisions for the conservatee spelled out in the directive unless the court takes away that power. The conservatee's use of an advance health care directive may limit or take away completely the conservator's authority to make such decisions. As conservator, you must respect the conservatee's wishes. The directive may also describe the conservatee's intended or completed funeral and burial arrangements.

You should keep a copy of the directive and learn who has the original. The conservatee's hospital and doctors should be given a copy, and, if the conservatee is in a care facility, make sure the facility has a copy, too. If you think that the person who was chosen to make health care decisions is not acting in the conservatee's best interests, check with your lawyer to learn what you can do. **L**

In the following situations, you can never give consent for medical treatment:

- You may not have the conservatee sterilized; only a judge may make that decision.
- You may not make the conservatee have mental health treatment if he or she objects.
- You may not place the conservatee in a mental health treatment facility against his or her will.
- You may not authorize electroshock therapy.
- You may not authorize the use of experimental drugs.
- You may not authorize involuntary administration of psychotropic drugs to treat dementia without specific court authority.

C. Working with Doctors and Pharmacists

It is your responsibility to understand the care that is being given and why. Don't consent to treatment unless you feel fully informed. Even if the treating physician has been the conservatee's doctor for a long time, you are still the legally responsible person.

See "Tips for Working with Doctors and Pharmacists" later in this chapter.

D. Improper Medicines and Dosages

Make sure that the conservatee is not being given medication just for the caregiver's convenience, to keep the conservatee "easy to manage." It is not right to drug people to make them docile or to stop their complaining.

Older people may need smaller and less frequent dosages of many medicines than do younger people. This is because people's bodies slow down as they age, and many medicines stay in the system longer. The conservatee's doctor may have to adjust the dosage of prescribed medicines for this reason. Ask the doctor to tell you what symptoms might indicate that a dosage of prescribed medication is too strong for the conservatee.

TIPS FOR WORKING WITH DOCTORS AND PHARMACISTS

- Let the conservatee's health care providers know that they should contact you about any medical matters, and talk with them regularly. When you can't reach the doctor, the nurse or physician's assistant may be able to keep you informed.
- Find out how often the conservatee should see the doctor.
- Be sure you know if the conservatee should be on a special diet or needs to avoid any particular food.
- Review the doctor's plan for treating the conservatee, and ask why a treatment is needed. Think about the long-range effects. Ask if the doctor has considered other treatments. If you have any doubts, get a second opinion from another doctor.
- Make sure that all the conservatee's doctors are in contact with one another and are aware of each other's treatments of the conservatee.
- You have the right to change the conservatee's doctor or to get another opinion. Consider, however, how the change will affect the conservatee. If you do change doctors, make sure that the new doctor sees all the conservatee's medical records.
- Know what medicines the conservatee is taking.
- Learn what side effects these medicines could cause, how to control them, and what kinds of reactions should be reported to the doctor at once.
- Take all of the conservatee's medicines to the pharmacy. Ask the pharmacist if the prescriptions are current and whether this combination of medicines could cause a bad reaction.
- Set up a system for keeping track of the conservatee's use of medicines. You need to be sure that the conservatee is taking the proper dosages at the right times. "Tips for Working with Aides" later in this chapter has more information about how to do this.

A doctor should examine an older person who is taking medicine at least once a month. You should talk to the doctor to find out

- What the examination showed
- What medicines are being given
- How long the medicines are to be given
- The reasons for giving the medicines
- How the medicines may affect the conservatee

If you are not satisfied with the answers, get a second medical opinion.

E. Arranging Dental Care

Make arrangements for the conservatee to have regular dental care. Regular dental care is important because healthy teeth or well-fitting dentures allow the conservatee to eat well-balanced meals. If the conservatee wears false teeth, he or she should see a dentist periodically to have the dentures relined.

If someone else handles the conservatee's money, find out whether the conservatee has dental insurance and, if so, the services that it covers.

Many older people have had negative, even frightening, experiences with dentists. Dental practice today is much improved over what the conservatee may remember and emphasizes relieving pain and preserving, rather than removing, teeth. If the conservatee expresses fears about going to a dentist, do the following:

- Find a dentist who has a good reputation for caring for older people.
- Set up an appointment for the conservatee just to meet the dentist.
- Ask the dentist to ease into difficult treatments by doing the simple, less painful work first.

F. Obtaining Hearing Aids, Eyeglasses, and Other Devices

You may significantly improve your conservatee's quality of life by making sure that he or she has all the aids needed and readily available to enhance enjoyment of many ordinary daily activities or even to make them possible. The fol-

lowing are examples of common situations in which a very small action by you may make a tremendous difference to your conservatee.

Hearing aids If the conservatee has hearing problems, make sure he or she has a properly working hearing aid with good batteries. A good hearing aid can help the conservatee stay aware of his or her surroundings and stay connected to other people, especially in a care facility. Some conservatees need to be encouraged to wear their hearing aids regularly. If the conservatee won't use the hearing aid, try to find out why. It may need an adjustment to fit comfortably or to work at the right sound level.

Eyeglasses Well-fitting, frequently cleaned eyeglasses with the right prescription and comfortable frames help the conservatee get around without injury, recognize familiar faces, and read or watch television independently. Prescriptions for glasses should be rechecked every two years.

Other devices The conservatee may need special equipment to carry out daily living activities independently or with a little help. Special equipment includes

- Walkers
- Canes
- Wheelchairs
- Equipment for eating or reading
- Commodes
- Colostomy bags
- Oxygen

Many of these things may be available through the conservatee's medical insurance carrier. Otherwise, they may be rented or bought from medical equipment and supply companies. Check your local Yellow Pages under "Medical Equipment and Supplies."

G. Caring for Feet

Proper foot care helps the conservatee get around with only a little help or no help at all. As people grow older, their nails become tougher and grow faster and become harder to care for without aid. Foot care is especially important if the conservatee has diabetes or circulatory problems. Although the pain of circulatory problems can make walking difficult, these problems can be treated and sometimes healed completely.

H. Encouraging Personal Cleanliness and Grooming

It can be hard for impaired people to stay clean and well groomed. Tactfully figure out how to help. Don't criticize or embarrass the conservatee. Give him or her good reasons to change clothes, such as special occasions, photographs you want to take for the family, and compliments.

Bathing If the conservatee forgets or refuses to bathe, try to find out why. Is he or she afraid of slipping or falling? Do physical limitations make it hard to bathe? Is the bathing area warm enough? Does the conservatee feel that there's no one or nothing to clean up for?

WAYS TO ENCOURAGE CLEANLINESS

- Install grab bars in the bathtub or shower or provide a shower seat.
- Make sure the bathing area is well heated.
- Remind the conservatee to bathe.
- Hire an in-home aide who will help the conservatee bathe and who will trim fingernails and toenails. Think about whether the conservatee would prefer a male or female aide.
- Provide incentives such as a shopping trip or dinner out.
- Make sure the conservatee has soap, shampoo, a comb or hairbrush, a toothbrush, and toothpaste. Some people may also want bath salts, mouthwash, cosmetics, or shaving supplies.

Bladder and bowel control If the conservatee is incontinent, make sure he or she has an adequate supply of disposable undergarments. To prevent accidents, schedule regular trips to the toilet.

4. Maintaining a Good Diet

Good nutrition means eating right to stay healthy. The conservatee needs a good diet to feel well. If the conservatee doesn't eat enough good, fresh food every day, he or she may become weak and have trouble walking or staying alert and awake.

Medicines may not work as well. The conservatee may become depressed or confused or may have hallucinations.

An important part of your job is to keep track of how much and what the conservatee eats. See “Ways to Help the Conservatee Eat Well at Home” and “Ways to Help the Conservatee Eat Well in a Care Facility” later in this chapter. A good diet contains bread and cereal, dairy products, fresh fruit and vegetables, and meat or meat substitutes such as cheese or beans.

A. Arranging Special Diets

Many conservatees have medical problems that require special foods, specially prepared foods, or both. For example, low-salt and low-fat diets are two kinds of special diets.

Ask the conservatee’s doctor or a nutritionist about the conservatee’s special needs. Organizations such as the American Heart Association and the American Diabetes Association have information about special diets. Refer to the list of health information organizations at the end of Section 3(A) earlier in this chapter. You may want to check bookstores and libraries for books with recipes for special diets.

B. Watching for Problems That May Lead to Poor Nutrition

People often stop eating well when they have a problem. You and others who see the conservatee regularly—personal-care aides, for example—should pay attention to any changes or problems in the conservatee’s life that could lead to poor nutrition, such as

- Loneliness
- Depression
- Stress or agitation
- The death of a loved one
- A fear of spending money
- A lack of money
- Memory problems that prevent the conservatee from remembering whether he or she has eaten

- A fear that food is poisoned
- Drinking too much alcohol or taking drugs that interfere with appetite
- Taking medicines that take away the conservatee's appetite or make the conservatee feel nauseous
- False teeth that don't fit
- A lack of interest in shopping for food or cooking
- An inability to shop or cook

WAYS TO HELP THE CONSERVATEE EAT WELL AT HOME

- Ask the conservatee which foods he or she likes.
- Learn about the conservatee's special eating problems. For instance, people with tender teeth or gums can't chew hard food. People with stomach problems may feel ill after eating a large meal or hard-to-digest foods.
- Be sure the conservatee has enough fresh food on hand that he or she likes and can prepare and eat easily.
- Check the refrigerator regularly and remove old, spoiled, or stale foods.
- Arrange for somebody—you or a friend or neighbor—to be with the conservatee for at least one meal a day. Loneliness at meal times can hurt the appetite.
- Provide transportation to a senior nutrition site where meals are served.
- Arrange for Meals on Wheels or a similar program to deliver one meal a day. Find out whether the conservatee eats most of this meal.
- Provide nutritious snacks. Some people do better with smaller, more frequent eating. Include soft fruits or juices and whole-grain cereals.
- If there is an aide in the conservatee's home, ask that person to write down what the conservatee eats and drinks and how much of it. See "The Communications Notebook" at the end of Section 7(C) later in this chapter.

WAYS TO HELP THE CONSERVATEE EAT WELL IN A CARE FACILITY

- Visit the conservatee at meal times to see what is being offered and how it is served.
- Ask the facility administrator for a meal so that you can eat with the conservatee.
- Review the conservatee's medical chart to see how much and what types of food the conservatee is eating. This is very important if the conservatee has special dietary needs or can't feed himself or herself.
- See whether a record is being kept of the conservatee's weight gain or loss.
- Ask about dietary supplements if you think the conservatee is eating poorly. Liquid supplements can be helpful.
- Take along the conservatee's favorite foods and beverages when you visit.
- Take the conservatee out for meals and picnics.
- Put a small refrigerator in the conservatee's room, if it's allowed, and keep it stocked.
- Think about the conservatee's culture when you provide food. Does the conservatee want kosher, Chinese, or vegetarian dishes?

5. Providing Clothing

Clothing may create special problems. The conservatee may

- Gain or lose so much weight that clothes no longer fit
- Have clothing that needs to be repaired, altered, washed, or dry cleaned
- Change clothes infrequently
- Refuse to buy new clothes or be unable to afford them

- Mix things up; for example, wear underwear on the outside or clothes that aren't right for the weather or occasion
- Wear shoes that hurt so much that he or she may refuse to walk

CLOTHING TIPS

- Make a list of the conservatee's clothes, including shoes and underwear.
- Don't discard anything without considering the conservatee's wishes.
- Write down what clothes the conservatee needs, making sure you know the right sizes.
- Look through catalogs with the conservatee to find out which colors and styles he or she likes.
- Consider buying clothing in a limited number of colors so most of the clothes will match.
- Take the conservatee shopping during the least busy times.
- Look through a medical supply catalog for impaired people to find clothing that's designed to be easy to get on and off.
- Buy properly fitting shoes that are comfortable and safe for walking.
- Make sure the conservatee has clothes that are appropriate for various activities.
- Lay out outfits for the conservatee to wear on special occasions.
- Help the conservatee get dressed, or arrange for an aide to help.
- Arrange for regular washing and dry cleaning of the conservatee's clothes.
- Place compatible clothes together on hangers or in dresser drawers.
- If the conservatee lives in a care facility, label all clothes, shoes, and other property with the conservatee's name to prevent theft.
- If the conservatee lives in a care facility, ask the facility administrator whether a staff person, shopping service, or volunteer is available to shop

for clothes. If so, provide a list of the conservatee's sizes and preferred colors and styles.

6. Arranging Recreation and Social Contact

A conservatee may be able to continue activities and hobbies that have brought pleasure for many years. Chat with the conservatee and friends or family to find out what things the conservatee likes and still may be able to do. If the conservatee can't do things that he or she enjoyed doing in the past, such as dancing, suggest new activities such as card games, checkers, or listening to the radio.

A. Providing Reading Material and Eyeglasses

If the conservatee likes to read, make sure that he or she has interesting things to read, properly fitted eyeglasses for reading, and a good reading light. If the conservatee's eyeglasses are old, set up an eye examination. Find out which magazine subscriptions the conservatee has and whether he or she wants them renewed. Large-print books and magazines and books on audiotape can be found in many libraries and bookstores.

B. Helping the Conservatee Enjoy Music

Make sure that a radio or stereo is available if the conservatee enjoys music. If the conservatee has trouble hearing, be sure he or she has a properly working hearing aid with good batteries and encourage the conservatee to use it. Give the conservatee earphones if he or she shares a room.

C. Encouraging Contact with Family and Friends

When a person becomes a conservatee, he or she does not lose the right to visit with friends or family. Encourage the conservatee to keep in touch with family members, friends, and neighbors. You or someone else may need to help the conservatee write letters or make phone calls. Encourage family and friends to visit and write back, and suggest that they take the conservatee on regular outings and trips. Even extremely impaired people enjoy going to a restaurant or a park or out for a drive.

Do not isolate the conservatee by keeping friends or family away. However, if someone continually upsets the conservatee or the household in which he or

she lives, or if you believe someone may be attempting to take advantage of or harm the conservatee, contact your lawyer to find out how you may ask a judge to restrict that person's access to the conservatee. **L**

D. Outings and Trips

The conservatee may enjoy outings and trips. Many California conservatees were born and raised in other parts of the country, and they enjoy going home. For others, travel has been an important experience in their lives.

An important early consideration is whether the conservatee can afford to travel. Conservatee travel arrangements tend to be more complex, and more expensive, than other travel arrangements. Someone may need to accompany the conservatee. There may be questions about who will pay for travel and lodging costs for persons other than the conservatee. The conservatee must be physically able to travel and may need to have a number of special accommodations.

Consider the benefit that the conservatee will receive from travel arrangements, and consult the conservatee's doctor and your lawyer before arranging a trip. **L** Court authorization or medical clearance, or both, may be necessary.

E. Finding Structured Activities Away from Home

Organized by community agencies, structured day activities such as adult day health care, adult social day care, and senior centers help maintain the conservator's physical and mental health. A number of these programs and services are described in Section 7, which follows.

7. Tapping Helpful Resources

Several community service agencies are available to help conservators in carrying out their duties to conservatees, especially in urban areas. Some provide free services, while others charge fees based on the conservatee's **income**.

See Appendix B Appendix B, “How to Find and Use Community Resources,” at the back of this handbook, has more information about locating the local services and resources described in this section.

Ask the court for its local supplement Many superior courts have a local supplement to this handbook. This may have additional information about local court requirements, and many also have important information about local community resources that may be available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure you have all of the local materials you need.

A. Case Management Services

Case managers can help you figure out what types of assistance the conservatee needs and refer you to personal, health, mental health, and social services. **Case management** and assessment services may be especially helpful to you in preparing your plan of conservatorship, and case managers can help you carry out your plan. These services may be provided in your area by private professionals and by community-based agencies.

B. Meal Services

Services such as Meals on Wheels deliver food to the homes of elderly people who can't or won't cook for themselves, or who can't leave home. In many communities, public agencies run group dining rooms that provide meals and social contact. Transportation often is available to take people to these meal sites.

C. Homemaker, Home Health, and Personal-Care Services

Trained in-home aides are helpful for conservatees whose problems do not require nursing care or 24-hour supervision. They can help with household chores, personal care, and health care and can keep the conservatee from hurting himself or herself. They may clean the house, do the laundry, shop for food, or cook. They also may feed, bathe, groom, and dress the conservatee; care for prosthetic devices; and help the person get around. See “Tips for Working with Aides” later in this chapter for ways to get the best help from an aide.

Sometimes conservators and conservatees are reluctant to hire an in-home aide because they worry that the person may steal the conservatee's money or possessions. Some conservatees feel that anyone would steal from them, and they readily accuse others of theft, even when nothing is missing. The tips in Chapter 5, Section 7(A), "Ways to Protect the Conservatee's Valuable Possessions," can help you put your mind at ease.

Medi-Cal or Medicare may pay for some home health services. In-home help is available to frail, low-income people without charge from the county Department of Social Services (In-home Supportive Services) or from individuals and agencies on a fee-for-service basis.

You are responsible for giving instructions and making sure that the aide follows them. Before you hire an aide, you and the conservator of the estate must agree on all details of hiring, paying, and monitoring in-home assistants. You can directly find, hire, pay, and supervise an aide to help the conservatee. Or you can go through an agency that will recruit, hire, pay, and supervise the aide for you.

Agencies Usually a full-service homemaker, home health, or personal-care agency recruits, hires, and pays aides who are employees of the agency. Using an agency can save you time and bother.

An agency screens applicants and checks their references and U.S. residency status. The agency withholds income and other taxes from the aide's wages. It provides all required insurance, such as workers' compensation, and it bonds the aide. The agency supervises the aide, taking disciplinary action or terminating the employee if necessary, and it will send a temporary replacement aide if the regular aide is ill or otherwise unable to work.

For these services, you pay the agency a fee that covers both the aide's wages and the agency's expenses and profit. Since the aide continues to be the agency's employee, you are not allowed to hire the aide directly without the agency's permission. The agency may charge you a fee if you wish to hire the aide away from the agency.

Hiring directly You can hire an aide through a registry. For a fee, registries will give you a list of aides to interview. If you hire one, you will be the employer, not the registry.

Or you can find an aide through a friend or community service organization's referral, an ad, or some other way. If you hire an aide directly, you will have a number of responsibilities as an employer, including paying taxes, checking the person's immigration status, and obtaining workers' compensation insurance. See

Chapter 5, Section 7(J), “Hiring and Paying Aides for the Conservatee,” particularly the checklist, for more information on hiring and employing aides. If you intend to hire an aide directly, consult with your lawyer concerning employer responsibilities and liabilities. **L**

TIPS FOR WORKING WITH AIDES

- Make up a list of specific tasks for the aide to do, including the times that these tasks should be done.
- Go over the list with the aide to make sure it’s clear.
- Check periodically to make sure the tasks are being done properly and on time.
- Show the aide where you’ve posted instructions for emergencies. Include phone numbers for the conservatee’s doctor; the hospital; your workplace and home; and fire, police, and ambulance services (911).
- Show the aide where to find the conservatee’s social security number, Medicare card, and any other health insurance cards.
- Tell the aide what he or she may buy for the conservatee; ask the aide to keep receipts, and pay back the aide promptly.
- If you, not an agency, pay the aide, pay him or her promptly at the end of the pay period.
- Have a backup plan if the aide is sick or can’t work for any reason. Make sure that the aide notifies you, not the conservatee, if he or she can’t work on a particular day or shift.
- Although only a licensed vocational nurse (LVN) or other licensed health professional may dispense prescription medicines, other attendants may assist the conservatee and remind the conservatee to take his or her medicine.
- Set up a notebook to keep track of doctors’ instructions, medications, and the conservatee’s activities. Ask each aide to make regular entries in the notebook and to read it every day for new instructions. See “The Communications Notebook” at the end of this section for an example of a communications notebook.

- Regularly read the notebook so that you know what is happening in the conservatee's everyday life.

D. Senior Centers

Senior centers offer a variety of daily activities, which may include card games, travelogues, movies, dances, exercise classes, and daylong bus trips to nearby places of interest. Many senior centers provide one or more hot meals each day for a small fee.

E. Adult Social Day-Care Programs

Adult social day care provides planned, supervised social, recreational, and nutritional services for adults who need some supervision. Activities may include cooking; exercise classes; practice in daily living activities; arts and crafts; art, music, poetry, and movement therapies; memory training; and current events discussion groups. Meals or snacks usually are included in the fee. Insurance policies rarely pay for adult social day care.

F. Adult Day Health Care Services

Adult day health care (ADHC) is useful for people such as stroke victims who are mobile but may need physical, speech, or occupational therapy or other services. Medi-Cal may pay for ADHC services because ADHC centers are staffed by health care professionals.

G. Day Programs for People with Developmental Disabilities

Several types of day programs are designed to meet the needs of adults with developmental disabilities:

- **Activity centers** Activity centers teach the basic skills that a developmentally disabled person needs to work, to integrate into the community at large, and to advocate for himself or herself.

- **Adult development centers** Adult development centers teach people with developmental disabilities basic self-help skills such as how to interact with others, how to make one's needs known, and how to respond to instructions.
- **Behavior management programs** These programs focus on behavior problems that prevent a person with a developmental disability from participating in other day programs.
- **Independent-living programs** These programs teach skills that a person with a developmental disability needs to live independently.
- **Social recreation programs** These programs offer leisure and recreational activities that integrate people with disabilities into the community at large.

(Continued on page 72)

THE COMMUNICATIONS NOTEBOOK

It is important that you and the conservatee's aide share significant information about the conservatee's health, condition, and activities. A communications notebook is a great way to do this.

Buy a three-ring loose-leaf binder and set up three separate sections:

- Log of Doctors' Instructions
- Medications Log
- Activity Log

Make sure that every aide checks the notebook every day for new information and make sure that the aides make daily entries in each section, as appropriate. Look over the notebook every time you visit the conservatee.

SECTION 1: LOG OF DOCTORS' INSTRUCTIONS

Every time the conservatee sees a doctor, the person who accompanies the conservatee, whether you or an aide, should write down any instructions the doctor gives. The log for this section of the notebook should include the following items of information, for example, in a separate column for each item:

- Date of instructions
- Name of doctor who gave instructions
- Instructions: The person accompanying the conservatee must write down the instructions in detail and read them back to the doctor to make sure they are correct. The doctor will likely give instructions regarding medicines, such as their timing, dosage, and duration; the type and frequency of recommended exercise or physical therapy; the frequency and manner of changing surgical dressings or taking vital signs; or the date, location, and preparations for scheduled tests, examinations, or other medical procedures. The person recording the instructions should sign his or her name or initials to each entry.

Section 1: Doctors' Instructions

| Date | Doctor | Instructions |
|---------|-----------|--|
| 2/9/02 | Dr. Patel | Continue giving conservatee one mg tablet of Elavil three times a day (8 am, 2 pm, 8 pm) until further notice. |
| | | Continue giving conservatee one 20 mg tablet of Septra two times a day (10 am, 4 pm) until 2/22/02. Continue giving conservatee one 100 mg tablet of Theragram M Multivitamin after breakfast. |
| 2/14/02 | Dr. Moore | Soak conservatee's left elbow in warm water for 15 minutes twice a day (9 am, 3 pm). |
| | | |

SECTION 2: MEDICATIONS LOG

When anyone gives medicine to the conservatee, whether prescribed or over-the-counter, that person should record the details in a medications log. This log should include the following items of information, for example, in a separate column for each item:

- Date and time medication given
- Name of medication and amount or dosage given
- Comments, including notes of any refusal to take medication, any medication dosages accidentally skipped, and any unusual reactions to the medication (nausea, dizziness, behavior changes, changes in vital signs, and so on)
- Name or initials of person who gave medication

Section 2: Record of medications

| Date | Time | Medications Administered | By Whom | Comments |
|----------------|-----------------|---------------------------------|---------------|----------|
| <i>2/15/02</i> | <i>8:05 am</i> | <i>1 tablet Elavil</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>8:25 am</i> | <i>1 tablet Theragram</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>10:02 am</i> | <i>1 tablet Septra</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>11:25 am</i> | <i>1 tablet aspirin</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>2:03 pm</i> | <i>1 tablet Elavil</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>4:02 pm</i> | <i>1 tablet Septra</i> | <i>Connie</i> | |
| <i>2/15/02</i> | <i>8:03 pm</i> | <i>1 tablet Elavil</i> | <i>Susan</i> | |
| <i>2/15/02</i> | <i>9:06 pm</i> | <i>1 tablespoon cough syrup</i> | <i>Susan</i> | |
| | | | | |
| | | | | |
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| | | | | |
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SECTION 3: ACTIVITY LOG

Each aide should record details about the events that occurred during each shift. This log should include the following items of information, for example, in a separate column for each item:

- Date and time of event or shift
- Name or initials of person making the entry
- Details about activity or condition of conservatee: Details should include, depending on the conservatee's current physical and mental condition and circumstances, observations about the conservatee at the beginning of the shift, such as what the conservatee was doing; what (and how much) he or she ate and drank; bathroom visits and results; and what he or she did during the shift; It should mention events occurring during the shift, such as telephone calls or visitors; and it should describe any changes in the conservatee's condition, behavior, or mood.

Section 3: Activity Log

| Date | Time | Aide | Activity |
|---------|---------|--------|--|
| 2/15/02 | 7:15 am | Connie | Conservatee awakened, washed, and dressed. |
| 2/15/02 | 7:35 am | Connie | Prepared breakfast per weekly menu. |
| | | | Conservatee ate all of toast, half of |
| | | | oatmeal, half a glass of juice, and half a |
| | | | banana. Conservatee in bed. |
| 2/15/02 | 8:30 am | Connie | Barbara Lewis called conservatee, who |
| | | | appeared to be upset by call. |
| 2/15/02 | 8:45 am | Connie | Conservatee voided approximately 300 cc, |
| | | | was washed. Changed underpads on bed. |
| 2/15/02 | 9:05 am | Connie | Soaked conservatee's elbow in warm water |
| | | | for 15 minutes, followed by 10 minutes of |
| | | | exercise and massage. |
| 2/15/02 | 9:35 am | Connie | Gave conservatee 4 ounces of cranberry |
| | | | juice. Drank half. |
| | | | |

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H. Transportation Services

In many communities, public or private agencies offer transportation for people who have trouble getting around because of physical or mental problems. Specially equipped vehicles may be available that can be scheduled to pick up the conservatee and take him or her to medical and social service appointments. Some agencies furnish an escort who can take the conservatee to an appointment or to the park or a shopping mall.

If the conservatee can get around alone, buy a bus pass or taxi coupons for his or her use. This lets the conservatee travel independently without carrying cash.

I. Personal Contact Programs

Some agencies will phone people who are confined to their homes, or they will send someone on a regular basis (a “friendly visitor”) to visit them to see how they are doing and to make personal contact. This is called social reassurance. Some agencies offer free services, while others charge a fee. Or you can ask neighbors and friends to stop by and to call.

J. Emergency Response Devices

Electronic emergency response devices allow a person to alert someone to an emergency in the home—for example, if the person has fallen and can’t get up. Some of these systems are for sale; others can be rented by the month. Hospital social service departments may offer this service or be able to refer you to a reputable company.

K. Counseling

A conservatee’s emotional state affects how well he or she performs on a day-to-day basis. Many conservatees are depressed, and counseling can help them lead happier lives. Counseling may be available through community organizations such as family service agencies, mental health clinics, or hospitals.

L. Respite Care: Giving the Caregiver a Break

Caring for dependent people can be exhausting; those who do need to take time off now and then. Hiring help or sending the conservatee to a day-care center or to stay in a care facility for a short time can give the caregiver a break.

This is called respite care and can last from a few hours to a few weeks. It may offer the conservatee a welcome change as well. The Department of Veterans Affairs, some board-and-care homes, and some nursing homes offer respite care, and regional centers may make referrals for respite care.

M. Work-Training Programs

The California Department of Rehabilitation offers vocational rehabilitation services for people with physical or mental disabilities. These services are designed to help people with disabilities work at full-time or part-time jobs.

The Department of Rehabilitation provides the following services:

- Counseling
- Job placement
- Job training
- Rehabilitation
- Transportation
- Attendants
- Specialized equipment and devices

The department also provides supported employment services to help people with severe disabilities work in the general community. For example, the department might arrange for an aide to help the person get to and from work. State-funded regional centers (see Chapter 3, Section 6) arrange work-training programs geared to the special needs of people with developmental disabilities.

N. Schools and Colleges

Check with the local high school and community college to find classes that may benefit the conservatee. For example, a local community college may offer a stroke recovery program.

See if there are any other classes that interest the conservatee. Some community colleges and adult education programs offer exercise, art, music, psychology, and other classes off-campus in retirement communities and at senior centers.

School districts must provide special educational programs and services to people with disabilities until they turn 22. The unique needs of each disabled student must be met with specially designed instruction and with services that are needed to help the student get an education, such as transportation, speech therapy, physical therapy, and counseling.

8. Protecting the Conservatee from Harm

Unfortunately, those with physical and mental problems sometimes are abused or neglected. Be on the lookout for signs that the conservatee is not being cared for properly or is being mistreated. Sometimes unexplained bruises or injuries, trouble sleeping, poor personal hygiene, or fear of a particular person or place may be signs of a problem.

If you are concerned that the conservatee may have been abused, neglected, or overmedicated in a care facility, do the following:

- Talk to care facility staff or the administrator.
- Speak with the conservatee's doctor or pharmacist about the problem.
- Complain to the care facility's licensing agency or the local long-term care ombudsman program office. Appendix B, "How to Find and Use Community Resources," at the back of this handbook lists these resources.
- Ask your county's social services department or the police for help.
- Think about moving the conservatee to another facility.

9. Keeping the Conservatee from Causing Harm

It is your responsibility to take whatever reasonable steps you can to stop the conservatee from hurting someone or damaging someone else's property. Your lawyer can suggest courses of action. **L**

For example, if the conservatee has a driver's license, but you have seen the conservatee drive dangerously, you should

- Let the Department of Motor Vehicles know so that it can start the process of canceling the conservatee's driver's license.
- Consider having the conservatee's vehicle disabled so that he or she can't use it. Consider also storing the vehicle where the conservatee can't get it, or even selling it before it depreciates if the conservatee will not be using it in the foreseeable future. Coordinate storage or sale with the conservator of the estate if that is a separate person.

- Arrange for another means of transportation, so the conservatee doesn't need to drive. For example, you might buy a bus pass or taxi coupons for the conservatee or arrange for community van service, if it's available.

If you don't take all the reasonable steps that you can to stop the conservatee from causing harm, you may have to pay out of your own pocket for the cost of any damage to people or property.

You or the conservator of the estate may be able to obtain insurance that will reduce the risk that you or the conservatee will have to pay out money for such harm. If you are worried that there is a serious risk that the conservatee may cause harm, check with your lawyer. **L**

10. Conservators Who Live Out of the Area

Even though you don't live near the conservatee, you still must carry out your duties as if you lived nearby. If you can't do certain things personally, you must make other arrangements and have them approved by the court.

HINTS FOR PERSONAL CONSERVATORS WHO LIVE OUT OF THE AREA

- Have a nearby friend, neighbor, or relative visit the conservatee frequently and report back to you. You may want to offer to pay the friend or neighbor reasonable out-of-pocket expenses.
- Regularly telephone the place where the conservatee lives and speak to people in charge and to the conservatee. Try to speak to the conservatee in private, if possible.
- Send frequent cards and letters that can be read aloud to the conservatee if he or she is not able to see or read. Whenever possible, include photographs.
- Arrange for regular visits by a priest, minister, or rabbi or others from the conservatee's religion.
- Send flowers from time to time.
- Have a telephone put in the conservatee's room if he or she lives in a care facility.
- Frequently thank the care facility staff.

- Consult a private case manager, the social work department of a hospital, or the court investigator in the conservatee's community if you need information, referrals, or assistance.
- Visit the conservatee periodically.

Reimbursement for travel expenses It's possible that your travel expenses to visit the conservatee could be paid from the conservatee's assets, depending on the distance traveled, but it is generally safer to pay travel expenses yourself if you can afford it, at least during the first year of the conservatorship, and then to seek court approval for reimbursement from the conservatee's assets at the time you ask for fees as compensation for your services as conservator.

Reimbursement for purely local travel expenses, including the cost of fuel or mileage and parking charges, is usually not approved by the court if you intend to request fees for your services, as this kind of expense is considered paid by an award of compensation. If you are not going to ask for fees, the court will probably authorize you to reimburse yourself from the conservatee's assets for local travel expenses. However, you should not reimburse yourself until the court has authorized you to do so.

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CONSERVATOR OF THE ESTATE

Managing the Conservatee's Finances

As **conservator of the estate**, you are responsible for managing the conservatee's finances. Your role is to protect the conservatee's **income** and **assets** by making sure the conservatee's bills are paid, investing the conservatee's money, making sure that the conservatee's property is insured, seeing that the conservatee is receiving all the income and benefits to which he or she is entitled, and being sure that tax returns are filed on time.

Special Note for Limited Conservators

If you are a conservator of the estate in a **limited conservatorship**, the order appointing you and your Letters of Conservatorship will specify those areas you are allowed to manage.

Read Chapter 3 on limited conservatorships, and then look through this chapter to read about the particular areas you are authorized to handle.

SUMMARY OF TIMELINE AND RESPONSIBILITIES FOR A CONSERVATOR OF THE ESTATE.

- Step 1** You **qualify** and are appointed conservator of the **estate**. You may be required to obtain a **bond** to qualify.
- Step 2** Obtain your **Letters of Conservatorship** and use **certified copies** of the Letters to notify the conservatee's banks, creditors, stock-brokers, and others (such as the Social Security Administration or Veterans Affairs) that you are authorized to act on the conservatee's behalf.
- Step 3** Figure out what assets the conservatee owns and locate them. Take immediate steps to protect assets. Consult your lawyer about any urgent steps that may be necessary to prevent loss, such as freezing the assets so that no one but you has access to them. **L** Change the conservatee's mailing address so that financial correspondence and billing comes to you.
- Step 4** Prepare an **Inventory and Appraisal** of the conservatee's assets and **file** it with the court clerk within *90 days* after your appointment. **L**
- Step 5** Evaluate the conservatee's financial needs and draw up a plan for meeting those needs (your conservatorship plan).
- Step 6** Set up a simple, accurate system for keeping records of conservatorship income and expenditures.
- Step 7** Protect and manage the conservatee's finances by
- Taking control of the conservatee's assets
 - Collecting income due to the conservatee
 - Making a budget for the conservatee to live on
 - Paying the conservatee's bills with the conservatee's money
 - Investing the conservatee's money
 - Protecting the conservatee's assets
 - Keeping good records of income and expenditures
- Step 8** You must file an **accounting** showing how you handled the conservatee's income and property within one year after your appointment and at least every two years after that. (Conservators of small estates may be relieved of this task, but don't assume that unless the court excuses you.) **L**

Step 9 You will serve as conservator until you have filed a **final accounting** and a judge officially **discharges** you as conservator. This may happen if you resign, the conservatee dies, a judge withdraws your appointment and replaces you with a new conservator, or a judge decides the conservatee doesn't need a conservator any longer.

1. Getting Started

Once you have been appointed conservator of an estate, you must take certain steps to qualify to serve. When you have qualified, you must obtain your Letters of Conservatorship (often just called Letters) from the court, authorizing you to act as conservator.

The next step is to let the people and institutions involved with the conservatee's property and finances know that you have been appointed conservator, by delivering to them certified copies of your Letters. You then take control of the conservatee's assets, prepare an inventory for the court listing them, and develop a plan for how you will manage the **conservatorship estate**.

At the outset, you may need to take fast action to protect assets and prevent confusion or financial loss. If you are represented by a lawyer, you should discuss all of the tasks involved and decide who will be responsible for each. **L**

A. Qualifying to Serve as Conservator of the Estate

Once you have been appointed as either **limited** or **general conservator** of an estate, you must qualify before you start to manage the conservatee's property and finances.

To qualify, you must obtain a bond (unless the judge hasn't required it in your particular case) and file it with the court clerk; see Section 1(B) later in this chapter. You must also do the following:

- Sign and file an acknowledgment that you received a statement of the duties and liabilities of the office of conservator, and also that you received a copy of this handbook. (This acknowledgment is on the statement of your duties and liabilities, **Judicial Council** form GC-348, entitled *Duties of Conservator and Acknowledgment of Receipt of Handbook*. A blank copy of this form is included in Appendix F at the back of this handbook.)

- Sign an oath, also called an affirmation, that you will perform your duties as conservator according to law. (This affirmation is on Judicial Council form GC-350, *Letters of Conservatorship*. See Appendix F at the back of this handbook.)
- Satisfy any other requirements that your local probate court may have.

See Chapter 1, Section 6, concerning the duties of a spouse or domestic partner of a conservatee when there are possible changes in the conservatee's marital or domestic partnership status.

B. Obtaining a Conservator's Bond

A conservator's bond is like an insurance policy for the conservatee's estate. Money from the estate is used to pay the premium to a special kind of insurance company, called a **surety company**, each year. If the premium is not paid, a judge may remove the conservator—that is, terminate the conservator's authority to act.

If the estate loses value and a judge decides that the conservator's dishonesty, misconduct, or negligence was to blame, the surety company will pay the estate for the loss, and then it will attempt to collect the amount it paid from the conservator's own money or property.

A bond is issued for a specific dollar amount. That amount is the maximum amount the surety company agrees to pay the estate if necessary. The premium payable to the surety company is based on that amount. The bond is usually set at an amount equal to the total of the estimated value of the conservatee's personal property plus the estimated annual income from the conservatee's real and personal property plus the estimated annual amount of certain public benefits the conservatee is expected to receive. The court may allow a conservator to file a smaller bond if he or she elects to put some of the conservatee's money in a **blocked account**, a special kind of bank account that does not permit withdrawals unless the court authorizes them.

There are two Judicial Council forms used to create a blocked account. The court's order authorizing the account is Judicial Council form MC-355, *Order to Deposit Money into Blocked Account*. The second form is MC-356, *Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account*. This document must be signed by an authorized representative of the bank where the account has been opened, stating that the bank received the court's order author-

izing the account and that the bank recognizes the account as a blocked account that requires a court order before a withdrawal is permitted, and providing other information about the account. Copies of these forms are included in Appendix F at the back of this handbook.

There is no Judicial Council form for a petition for authority to establish the blocked account. This authority is usually requested in the petition for appointment of conservator because that petition contains the estimated value of the conservatee's estate that the court relies on to determine the size of the bond. However, you may ask for this authority at any time. If you want to do so after your appointment, you or your lawyer must prepare your petition without using a form. **L**

Once the blocked account has been established, you must petition the court for authority to make a withdrawal from the account. This is done on Judicial Council form MC-357, *Petition for Withdrawal of Funds from Blocked Account*. The court's order authorizing the withdrawal is Judicial Council form MC-358, *Order for Withdrawal of Funds from Blocked Account*. Copies of these forms are included in Appendix F at the back of this handbook.

The amount of the bond in your case was set by the court at the time you were appointed conservator of the estate. It was based on the estimated size and composition of your conservatee's estate shown in the petition for appointment of conservator.

The initial estimated value of the estate may turn out to be too low, or the kind of assets held may change, for instance, if you sell the conservatee's real property for cash. The amount of bond on file may become less than the amount required by law. If that happens you must immediately apply to the court for an order increasing the amount of the authorized bond. You then must obtain and file the increased bond with the court.

Sometimes the amount of bond on file becomes greater than the amount required by law. This can happen if the original estimate was too high, or if expenditures approved by the court for the support of the conservatee reduce the estate below its estimated size. If that happens, you may apply to the court for an order reducing the amount of the required bond. If the court orders the bond reduced, the surety company will issue a new bond in a lower amount to replace the original bond, and you may receive a refund of unused bond premium on the original bond in the year of the change. The bond premium will also be lower in future years.

You should consult with your lawyer on any questions about bonds, and both of you should always be aware of the required amount of bond for your conservatee's estate and the value and kind of property in the estate at any given time. **L**

C. Obtaining and Using Letters of Conservatorship

When you have qualified, you must obtain your Letters of Conservatorship from the court clerk's office. They authorize you to act as conservator.

The Letters also show others that you are the duly appointed conservator with authority to act for the conservatee. You will prove your authority to act by showing or delivering certified copies of your Letters to persons, companies, or government agencies concerned with the conservatee's property or financial affairs. For example, banks, stockbrokers, insurance companies, other businesses, and many public agencies will ask for certified copies of your Letters before they will accept your instructions concerning the conservatee.

See Chapter 1, Section 3, for more information about qualifying, Letters of Conservatorship, and obtaining certified copies of your Letters.

To protect the conservatee's home and other real estate, you or your lawyer must **record** a certified copy of your Letters with the county recorder in each county where you think the conservatee owns an interest in any real property, including a security interest, such as a mortgage or trust deed securing a promissory note the conservatee receives payments on. Recording the Letters keeps the real property from being sold, transferred, or offered as security for a loan without your knowledge and prevents anyone from claiming that he or she did not know about the conservatorship when he or she dealt with the conservatee or the conservatee's real property. See the sample letter that follows.

Note that the sample letter sends both a certified copy of the Letters and an uncertified photocopy of them. That is always a good idea when sending anything to be recorded. The recorder will conform the uncertified copy by placing the recording information on it (the date and time of recording and the document number assigned by the recorder). The copy will then be returned in the envelope you have provided, often within a few days. The certified copy actually recorded will eventually also be returned to the person identified at the top of the document (usually your lawyer, if you have one). However, this may take several weeks. In the meantime, the conformed copy is good proof that the document has in fact been recorded on the date shown.

SAMPLE LETTER TO COUNTY RECORDERS

2230 Montezuma
Napa, CA 94558
June 3, 2002

Napa County Recorder Office
1195 Third St., Room 110
Napa, CA 94559

↓
RE: Conservatorship of the Estate of Luigi Oreste
Rossi, also known as Lou O. Rossi

Dear County Recorder:

Please record the enclosed certified copy of the
Letters of Conservatorship. I am enclosing a certified
copy and a photocopy. Kindly conform the photocopy and
return it in the self-addressed, stamped envelope
enclosed.

I am enclosing a check in the amount of \$_____ to cover
the recording fee. ↑

Thank you for your assistance and cooperation.

Sincerely,

Angela Mello
Conservator of the Estate
of Luigi Oreste Rossi

Enclosures:

Certified copy of Letters of Conservatorship
Photocopy of Letters of Conservatorship
Check
Self-addressed, stamped envelope

*If the conservatee
sometimes uses a
variation on his or
her name, such as
a middle initial or
maiden name,
provide that
information after
"also known as."*

*Call the recorder's
office to find out
the proper amount,
and fill in that
figure here.*

D. Working with the Conservator of the Person

If someone else is conservator of the person, you should begin working with that person as soon as possible. You will need to stay in touch with the conservator of the person to decide which arrangements for the conservatee's care are needed and are affordable.

E. Working with the Conservatee

Try to involve the conservatee in your decisions. You must treat the conservatee with respect, making choices that benefit the conservatee and encourage self-esteem. However, in the end you must make the necessary decisions. The court will hold you, not the conservatee, responsible.

F. Developing Your Plan of Conservatorship

Chapter 6, Section 1, of this handbook explains how you can prepare a plan for the conservatorship. Whether you are conservator of the estate, conservator of the person, or both, the plan will help you keep track of all of your duties and fulfill them on a regular basis. Although formal conservatorship plans are not required in all cases in California, some courts require conservators to prepare and file them in all cases, and all courts may require them in any given case. Speak to your lawyer about your court's specific requirements. **L**

Whether or not you are required to prepare and file a formal plan, it is recommended that you keep at least an informal one, in the manner suggested in Chapter 6. It is also a very good idea to review and adjust your plan periodically. Periodic review and adjustment is essential because changing financial conditions or other unexpected events can affect the estate. For more information, read Chapter 6, Section 2.

G. Keeping the Court Informed of Address Changes

If the conservatee's residence address or telephone number changes after your appointment, you must promptly notify the court of the change by completing and delivering to the court, in person or by mail, a form notice of the change. A sample of this form is included in Appendix F, at the back of this handbook. It is Judicial Council form GC-080, called *Change of Residence Notice*.

Your lawyer will have, or can get, copies of the change-of-address form. Your lawyer will prepare it and will arrange for its delivery to the court, so you

must be sure your lawyer is informed before the conservatee's residence address or telephone number are changed. **L**

If you don't have a lawyer, you can get copies of the form from the court, or you can get them from the other sources described in Appendix F. Your court may impose a time limit for you to give the information to the court. The Superior Court of Los Angeles County, for example, requires that it be supplied within 30 days of the date of the change.

You must notify the court of any change in your address or telephone number if you don't have a lawyer. The court may require that you provide this information even if you are represented by a lawyer, or it may require that you provide current statements of your address and telephone number, and those of the conservatee, with every account and report you file, even if the information has not changed. The court may have a local form for this purpose. If not, you may provide the information by letter.

Even if it is not required, it is a good idea to advise the court of any changes in your address and telephone number. Include the conservatorship case name and the court's case number in any letter you send to the court. Address your letter to the clerk of the court, not to the judge. If you are in a large county, address it to the probate clerk. Send it to the address of the court where your appointment hearing was held. Send a copy of your correspondence to the court investigator's office. That office will usually be in the same location as the court, but you should check to make sure.

2. Responsibilities of a Conservator of the Estate

The conservatee's assets and most of his or her income are known as the conservatorship estate, or just the estate. As conservator of the estate, you must protect and manage the estate for the conservatee's benefit. The court also may authorize you to use estate assets for the benefit of the conservatee's spouse or other relatives, such as minor children.

As protector and manager of the conservatee's assets, you must do the following:

- Locate and take control of the assets and make sure they are adequately protected against loss.
- Make an inventory of the assets for the court.

- Collect all of the conservatee's income and other money due and apply for government benefits to which the conservatee is entitled.
- Make a budget for the conservatee, working with the conservator of the person, or, if there isn't one, working with the conservatee or his or her caregiver.
- Pay the conservatee's bills and expenses on time and in line with the budget you have made.
- Keep track of how a trustee or other party is managing any of the conservatee's assets in his or her control.
- Invest the estate assets and income in safe investments that will meet the conservatee's needs and the court's requirements. You should consult with your lawyer concerning any investments of the conservatorship estate. Some investments require prior court approval or may not be authorized under any circumstances. **L**
- Periodically account to the court and to other interested persons about income coming into the estate, expenditures, and the remaining conservatorship property.
- Prepare a final report and accounting of the estate when the conservatorship ends.

3. Giving Notice of the Appointment

As you locate the conservatee's assets (see Section 4 later in this chapter) and acquire knowledge of the people and institutions that have a financial relationship with the conservatee, notify them promptly about your appointment as conservator.

People and institutions that need to be notified may include

- The conservatee's employer, if the conservatee is working
- Banks, savings and loans, credit unions, and other financial institutions
- Stockbrokers
- Companies in which the conservatee owns stock

- Insurance companies and agents
- All companies and banks where the conservatee has charge accounts, credit cards, or an ATM card
- Government agencies, such as the Social Security Administration, from which the conservatee receives payments
- Retirement plans
- The conservatee's accountant or tax return preparer
- Trustees, if the conservatee has trusts or is a beneficiary of someone else's trust; see Section 7(M) later in this chapter
- Creditors, or people to whom the conservatee owes money
- Debtors, or people who owe the conservatee money
- Anyone else who sends the conservatee money: for example, the tenants of any rental property owned by the conservatee
- Anyone involved in a lawsuit by or against the conservatee, especially any lawyer who is representing the conservatee in a lawsuit
- The post office, if you want the conservatee's mail to be forwarded to your address

Be sure to include the new address to which such people and institutions should send any future correspondence, bills, or payments. See the sample notice letter that follows.

SAMPLE LETTER OF NOTICE OF APPOINTMENT

*Use the address of
your local Social
Security office.*

53980 W. Petaluma Ave.
Fresno, CA 93711
March 9, 2002

*If the conservatee
sometimes uses a
variation on his or
her name, such as
a middle initial or
maiden name,
provide that
information after
"also known as."*

→ Social Security Administration
5090 N. West Avenue
Fresno, CA 93711

→ RE: Conservatorship of the Estate of Barton George
Krikorian, also known as Bart Krikorian

Conservatee's Birth Date: August 12, 1907

Conservatee's Social Security Number: 333-22-1111

Dear Administrator:

Please be advised that I have been appointed conservator
of the estate of Barton George Krikorian. Please have
all future checks made out to me, Harold Krikorian,
Conservator of the Estate of Barton G. Krikorian, and
sent to me at the above address.

I have enclosed a certified copy of my Letters of
Conservatorship for your records.

Sincerely yours,

Harold Krikorian
Conservator of the Estate
of Barton George Krikorian

Enclosure: Certified copy of Letters of Conservatorship

Signing letters and other documents You’ve just seen the second of several sample letters disclosing to others a person’s position as the conservator of an estate. Please note in this sample how the conservator’s signature block is set up, just below the space for the conservator’s actual signature:

Harold Krikorian
Conservator of the Estate of Barton George Krikorian

When you sign a contract as the conservator of an estate, you bind, or obligate, the conservatee’s estate, not your own. The other party to the contract must look to the conservatee’s estate, not to your property, for payment.

If the other party to a contract didn’t know that you were acting as a conservator when the contract was signed, he or she will assume that you signed the contract as an individual, with the intent to obligate your own property or credit. If that assumption is reasonable under the circumstances, you might be held personally responsible.

It is important to make sure that the people or organizations you deal with when you act as conservator know that you are acting in that capacity. One way to do that is to deliver copies of your Letters. Another way is to identify yourself as the conservator of the estate in all letters that you send to anyone concerning your conservatee’s financial affairs, in the way noted here. You can, of course, simply tell anyone you deal with that you are acting as a conservator. However, to protect yourself in case of a dispute later, you should make sure there is some written record that shows that you clearly advised the other person that you were acting as a conservator at the time of the transaction between you.

In particular, make sure any written lease, contract, or agreement you sign for the benefit of your conservatee identifies you throughout the document as the conservator of his or her estate. At the very least, add the line “Conservator of the Estate of [conservatee’s name]” just below the place where you sign the document, even if you have to handwrite this at the time you sign.

You should also be careful not to agree to be personally responsible for, or guarantee, any payments due under any contract you sign as conservator. Language imposing this obligation may be buried in the fine print. If you have any questions about a contract you are thinking of signing or are not sure of any of its terms, you should have your lawyer review it **before** you sign. **L**

Finally, all checks you write for the benefit of the conservatee, including all payments under any contract, should identify you as conservator of his or her estate. You should make no payments from your own checking account or charged to your own credit card.

4. Locating the Conservatee's Assets

Find and take control of the conservatee's income and assets. This means identifying the assets the conservatee owns and the income he or she receives and is entitled to receive, finding the assets and the sources of income, taking all necessary immediate steps to protect them from loss or damage; and marshalling, or collecting, them, usually by transferring them into your name as conservator. **L**

The information you gain from taking control of the conservatee's assets will help you prepare an Inventory and Appraisal. You should begin the inventory as you go through the process of identifying and locating assets. It must be submitted to the court within 90 days of your appointment (see Section 6 of this chapter and Appendix C at the back of this handbook).

ASSETS TO LOOK FOR

- Cash
- Uncashed checks and refunds
- Bank accounts (checking, savings, certificates of deposit)
- Stocks
- Bonds
- Promissory notes and other legal claims on others, whether or not reduced to court judgments **L**
- Partnerships
- Other business interests
- Pensions, **Keogh plans, 401k plans, Individual Retirement Accounts,** and other retirement plans
- Life insurance policies
- Real estate
- Furniture
- Antiques

- Artwork
- Jewelry
- Valuable dogs or other pets
- Valuable collections
- Vehicles

INCOME TO LOOK FOR

- Government benefits such as social security, **SSI**, veterans', disability, or welfare
- Insurance benefits
- Wages; severance pay; or disability, vacation, or sick leave owed to the conservatee
- Pensions
- Retirement plan payments or withdrawals
- Settlements from divorce, injury, or other lawsuits
- Payment of debts owed to the conservatee
- Money from trusts
- Rental income
- Annuities
- Reparations from foreign countries

A. Assets That Aren't Part of the Conservatorship Estate

Certain assets or income of the conservatee are not part of the conservatorship estate. You can't take control of them. You are also not responsible for them and do not have to account to the court for them.

Current salary or wages If the conservatee is working, the salary or pay from that work is the conservatee's to use as if the conservatorship did not exist. The conservator neither collects nor accounts to the court for the conservatee's current wages.

Assets in a living trust If the conservatee has created a **revocable living trust**, the assets held by the trustee of that trust will be handled as provided in the trust documents and not as part of the conservatorship.

Community property of a married conservatee If the conservatee is married and his or her wife or husband has legal capacity, the capable spouse has the exclusive right to manage and control the couple's **community property**. That property is not part of the conservatorship estate unless the capable spouse consents in a writing filed with the court in the conservatorship that some or all of it is to be included.

However, the capable spouse has a legal duty to support the conservatee spouse. If the capable spouse is managing some or all of the couple's community property outside the conservatorship, this duty may be enforced against that property in the conservatorship proceeding rather than in a marital support proceeding under family law. In addition, the court in the conservatorship may order the capable spouse to apply community property that he or she is managing to the support of the conservatee, at the request of the conservator, the conservatee, a relative or friend of the conservatee, or any other interested person. **L**

If the capable spouse has **separate property**, he or she may still have a duty to support the conservatee spouse from that property. However, that obligation must be enforced by a family law department of the superior court, not the probate court. If you have any questions concerning a capable spouse's separate property, you (and possibly your lawyer in the conservatorship proceeding) should talk to a lawyer experienced in family law. **L**

If you are married to your conservatee, you should consult closely with your lawyer about the character (community or separate) of your property, about which portions of your community property you should manage inside or outside the conservatorship, and about the support you provide the conservatee from that property or from your separate property. **L**

Even if you are not the spouse of your married conservatee, you should consult frequently with your lawyer about the questions mentioned in this section, particularly questions about the character of the property held by the

conservatee or his or her spouse and questions concerning support from the conservatee's community property or from the spouse's separate property. **L**

If both spouses have conservators of their estates, one-half of the community property of the couple is included in each conservatorship estate and is managed by the conservator of that estate, unless the two conservators agree otherwise and the court in either conservatorship proceeding has approved the agreement. If your conservatee's spouse also has a conservator, you should cooperate and work as closely together as you can.

B. How to Find the Conservatee's Assets

Look through the conservatee's accumulated mail. Make sure to contact all senders of mail to ensure that new mail is sent directly to you, and check all mail that is forwarded or sent directly to you.

Carefully look through the conservatee's home for cash, ownership papers, financial records, recent mail, income tax returns, deeds, insurance policies, and other valuables. Look in the conservatee's safe deposit box; see Section 5(B) later in this chapter.

The best sources of information are the conservatee and his or her close friends, relatives, business associates, and accountant or lawyer. If the conservatee is confused or forgetful, double-check everything he or she tells you.

If you believe someone else has some of the conservatee's assets or records that you should have, but that person won't cooperate with you, consult your lawyer to find out about court procedures that can help you. **L**

C. Assets Owned by the Conservatee and Others

The community property of a married conservatee doesn't become part of the conservatorship estate unless both spouses are conservatees or the spouse who isn't in conservatorship agrees in writing that all or part of the community property may go into the conservatorship estate; see Section 4(A) earlier in this chapter.

Real estate, bank accounts, and other property owned with others create special problems. Co-owners should be contacted immediately to figure out how much of the property belongs to the conservatee and how much belongs to the co-owners.

Co-ownership is a complicated legal area. Whenever you change the owner of an asset from the conservatee to the conservatorship estate, the rights of

co-owners are affected. The consequences may happen after the conservatee's death or while the conservatee is alive. Consult your lawyer about property owned with others. **L**

5. Taking Control of the Conservatee's Assets

You must take control of the conservatee's assets and transfer them into the conservatorship estate.

A. Bank Accounts

Open a checking account right away in this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

It is important to use this name. Use the conservatee's social security number, not your own, to open this account. Instruct the bank to send all statements and canceled checks directly to you.

Consider also opening a savings or money-market account in the same way. Money not needed for current ongoing expenses should be deposited in an interest-bearing savings or money-market account.

Asking financial institutions for information Send a letter, along with a certified copy of your Letters, to all banks, savings and loans, and other financial institutions where you think the conservatee had accounts on the date you were appointed. Ask what accounts, if any, the conservatee has there and how the conservatee's name appears on them. Also ask the bank to give you the current balance of each account and the balance on the date you were appointed. If you don't have the conservatee's original statement for each account for the period that includes the date of your appointment, ask for a copy of that statement.

The bank will have to send information on a required Judicial Council form directly to the court concerning these accounts when you change any of them to show the conservatorship, or when you close any of them and replace them with new accounts in the name of the conservatorship. Although the bank is not required to send you a copy of this form, it is a good idea to ask it to do so. The copy may be useful when you prepare your first accounting with the court. See the discussion following the sample letter, and Section 8 of this chapter, which follow.

SAMPLE LETTER SEEKING ACCOUNT INFORMATION

6 Puente Terrace
La Jolla, CA 92037
July 5, 2002

Operations Officer
Hometown Federal Bank
900 Washington Boulevard
Los Angeles, CA 90053

↓
RE: Conservatorship of the Estate of Rose Gertrude
Weinstein, also known as Rose Gradsky

Bank account number 120-03255

Social security number 333-33-3333

Dear Operations Officer:

I have been appointed conservator of the estate of Rose G. Weinstein. Enclosed is a certified copy of my Letters of Conservatorship.

Please confirm that Mrs. Weinstein holds the account identified above. Please also advise me of the rate of interest, if any, paid on this account and the balances in the account as of May 7, 2002 (the date I was appointed conservator), and as of the date of this letter.

I revoke any signature authorization and any power of attorney applicable to this account, to the fullest extent allowed by law. Please advise me immediately if there is a durable power of attorney applicable to this account.

Please provide me with the information and forms I need to transfer the money in the above-identified account to a checking account in my name as conservator of Mrs. Weinstein's estate. Please contact me immediately for additional instructions if the opening balance of the new account would exceed \$100,000.

I understand that all accounts in FDIC institutions may be withdrawn before they mature with no early withdrawal penalty if a court has ruled that the account holder is no longer capable of managing her own financial affairs, and if the account was issued before the court's decision and not extended or renewed after that date. If these regulations do not apply to the above-identified account, please let me know.

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

SAMPLE LETTER SEEKING ACCOUNT INFORMATION

Page 2

I also understand that you are required to complete and file a form directly with the court identified in the enclosed Letters when the above-identified account is transferred to me as conservator. I ask that you send a copy of the completed form to me when you send the original to the court.

If you haven't found the conservatee's original statement for the account for the period that includes the date of your appointment, add the following paragraph.

I also ask that you provide me with a copy of your account statement for the above-identified account for the period that includes May 7, 2002. I have been unable to find any of Mrs. Weinstein's original statements for this account.

I have found an unidentified safe deposit key in Mrs. Weinstein's home. Can you advise whether she had a safe deposit box in your institution? If so, I will be pleased to meet with you to see if this key fits a box in your bank, to enter the box, and to inventory its contents. I would like to be present when that is done. If Mrs. Weinstein has a box at your institution but the key does not fit, I would also like to be present when the box is drilled.

Last, can you advise me as to whether Mrs. Weinstein has any accounts in any branch of your institution in addition to the account identified above? If so, can you also provide me with the same information concerning each account as requested above, plus the branch name and address where each account is located?

I am enclosing this information and a self-addressed, stamped envelope for your use in returning these documents to me. If there is a charge for this service, please let me know.

Thank you for your prompt assistance in this matter.

Yours truly,

Martin S. Weinstein
Conservator of the Estate
of Rose Gertrude Weinstein

Enclosure: Certified copy of Letters of Conservatorship

Revocation of powers of attorney concerning bank accounts Some bank or savings and loan accounts create rights in a person other than the owner of the account to withdraw from the account, by language on the signature card for the account that creates a **power of attorney**. Depending on the language used on the card, the power of attorney is either durable or nondurable.

A **nondurable power of attorney** is not effective once the **principal** (the person who created the power and for whom the **attorney in fact** acts under it) loses legal capacity. The appointment of a conservator of the estate for a principal establishes the principal's incapacity. But a nondurable power of attorney over a bank account remains effective if the bank relies on the power before it has been given written notice of the principal's incapacity.

The Letters of Conservatorship mentioned in the sample letter would give sufficient written notice to the bank of the principal's incapacity. The suggested language in the sample letter revoking all powers of attorney is not necessary to end the effectiveness of a nondurable power if the bank acts correctly. The language is intended to emphasize to the bank that it should act correctly, by preventing any attorney in fact appointed under a nondurable power from continuing to act on the conservatee's accounts at that bank.

A **durable power of attorney** remains effective upon the principal's incapacity. A conservator of the estate can revoke a durable power of attorney created by the conservatee only with prior authority of the court.

The suggested language in the sample letter would revoke only nondurable powers because the court has not given authority to revoke durable powers. If the court had granted this authority, the letter to the bank would mention that fact and would enclose a copy of the court's order. However, the bank will have the signature cards for its accounts and should be willing to respond to the request in the letter by advising the conservator whether any durable powers of attorney have been created affecting accounts at that bank.

Changing the name of the owner of existing bank accounts and time deposits You should change the ownership of bank accounts and time deposits that you discover in the conservatee's name to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

It is important to use this name. Make this change as soon as possible.

Some banks will waive penalties for early withdrawal of time deposits to establish conservatorship accounts. If the institution won't waive the penalty, wait

until the deposit matures to withdraw funds or close the account. Change the name of the account's owner to the conservatorship, unless doing so would cause the account to lose interest. In any event, notify the bank of your appointment.

Each financial institution must advise the court that ownership of an existing account has been changed to show a conservatorship, or that a new account has been opened showing a conservatorship, and must provide other required information. This is done on a required Judicial Council form called *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safety Deposit Box*, form GC-051. A blank copy of this form is included in Appendix F at the back of this handbook. The bank should have its own supply of these forms and is responsible for preparing and filing them directly with the court. It is a good idea to ask the bank to send you a copy of the completed form when it sends the original to the court, although the law does not require the bank to do so.

Conservatee's personal checking account Some conservatees are capable of paying for everyday expenses such as utilities, food, rent, clothing, or other incidental expenses. If so, the judge may have approved an allowance for the conservatee. If the conservatee can manage a small checking account, you may want to keep one account open in the conservatee's name, into which you deposit the allowance payments. Have the bank send you all the statements and canceled checks on this account, so that you can see how the conservatee is spending the money and so that you can control the amount in the account. You must show approved allowance payments to the conservatee in your accounting, but you do not have to show the court what the conservatee did with the allowance payments.

Accounts the conservatee owns with someone else If you discover that any of the conservatee's accounts are owned with someone else—for example, as a **joint tenant**—do not remove funds from the account or remove the other person's name without checking with your lawyer. **L** In the meantime, let the bank know you have been appointed conservator and ask that no withdrawals be permitted from the account without your consent.

If the bank won't cooperate, contact your lawyer immediately. **L** You may need a court order to freeze the account while a judge decides the rights of the other person whose name is on the account.

If you withdraw funds, or if you remove the other person's name, you may be affecting the conservatee's intended estate plan. Some or all of the money remaining in such accounts is supposed to go to the other person named on the account if the conservatee dies first. You may also be affecting the other person's rights during the conservatee's lifetime, which will be especially

important if some of the money in the joint account originally belonged to the other person named on the account. **L**

Accounts the conservatee owns with a designated beneficiary If you discover that any of the conservatee's accounts have a **beneficiary**, or payee, named on the account, for example, a **Totten trust account** or a **Pay on Death (POD) account**, be sure to keep the beneficiary or payee designation when you change the account name to the conservatorship and to you as conservator. Otherwise, you may be seriously affecting the conservatee's estate plan. The money remaining in such accounts is supposed to go to the named beneficiary or payee when the conservatee dies. You should also be reluctant to withdraw money from these accounts without first talking to your lawyer, because if you withdraw money from one account and not from another, and each account has a different named beneficiary or payee, you will be affecting the conservatee's estate plan. Often a court order is needed to solve this problem. **L**

Where to deposit money You may deposit conservatorship funds in any California bank or any insured savings and loan or credit union. Don't put more money in any one institution than its Federal Deposit Insurance Corporation (FDIC) insurance limit (currently \$100,000).

Checkbook records Put all income in the conservatorship checking account and use it to pay expenses. Avoid making out checks to "Cash," except for petty cash or for a court-authorized allowance paid directly to the conservatee. Section 7(C) later in this chapter explains how to use checkbook records to prepare your reports to the court.

Keeping the conservatee's money separate Mixing the conservatee's money with your own can get you into serious trouble. For example, never deposit into your own bank account a check that is made out to the conservatee, even though it may seem convenient at the time. A judge may remove you as conservator and make you pay for any losses out of your own pocket if you can't account for all of the conservatee's money. It's even a good idea to set up the conservatorship bank accounts at a different bank than your own so even an unintended or accidental deposit into the wrong account is unlikely.

CAUTION None of the conservatee's money should ever go into your personal accounts, and none of your own money should ever go into any of the conservatee's accounts or into any account in your name as conservator.

B. Safe Deposit Boxes

Banks will make you show a certified copy of your Letters before you may open the conservatee's safe deposit box to review the contents. When you first open the box, be sure to ask a bank employee to watch you and to sign a list of what you find there.

If you close the box or change title to it to show the name of the conservatorship, the bank must complete and file with the court the same form required for changes in bank accounts, Judicial Council form GC-051. This form requires the bank to describe the contents of the box. You should ask for a copy of the completed form the bank sends to the court.

If you can't find a safe deposit box key, the bank may have to arrange for a locksmith to come to the bank to drill the lock on the box so it may be opened to allow the bank to identify its contents for the court form or to inventory and deliver those contents to you. You should try to be present when that is done.

The bank will hire a locksmith to come to the bank to perform that service and will bill you for its cost. The bill may be paid from the conservatee's assets. However, you should write a check for this cost rather than permit the bank to withdraw the money from a conservatorship account opened at the bank. This will ensure that your record of expenditures is accurate and complete.

If the conservatee rented the box with someone else If the conservatee's safe deposit box is rented with someone else, ask that person to come with you when the box is opened. Separate the items in the box so that it contains only the conservatee's belongings. If there is a question or disagreement about who owns a particular item, leave it in the box and check with your lawyer. **L**

If you are going to keep the box for storing conservatorship property, you should change the name on the box, as you did with the bank accounts (see Section A earlier in this chapter), to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

You should be the only one to have a key to the box. Not even the conservatee should have a key.

If the conservatee doesn't have a box If the conservatee doesn't already have a safe deposit box, think about renting one. If you rent a box in the name of the conservatorship, the bank must notify the court that you have done so and must tell the court what went into the box on the day it was rented.

Never store the conservatee's assets in your own safe deposit box.

What to keep in the box A safe deposit box is useful for keeping small but valuable objects, such as precious jewelry, stamp collections, and coin collections. If you are unsure about whether it is more important for the conservatee to have such an item rather than to have it stored in a safe deposit box, consult your lawyer. Remember that you may have to pay out of your own pocket for any loss of valuables. **L**

Important papers should also be kept in the box.

PAPERS TO KEEP IN A SAFE DEPOSIT BOX

- The conservatee's will or other estate planning documents
- Stock certificates
- Bonds
- Real estate deeds
- Vehicle or vessel registration documents
- Promissory notes
- Insurance policies
- Birth, marriage, and death certificates
- The conservatee's passport
- Photographs of the conservatee's valuable personal belongings
- Any other papers that would be hard or impossible to replace

C. Stocks and Bonds

Although the conservatee's stocks and bonds usually will be in a safe deposit box or with a broker, it is not uncommon to find certificates in the conservatee's home, so you should carefully look for them. You may also learn of stocks and bonds from brokers' statements, income tax returns, Internal Revenue Service (IRS) 1099 forms, and dividend checks.

Lost certificates If you find dividends reported on an income tax return, but you can't find a stock or bond certificate, write to the company and ask for a replacement certificate. Be sure to tell the company to send future dividends to you.

Dividend reinvestments If the conservatee owns the stock of a company that has a dividend reinvestment program, a plan under which cash dividends are not distributed but are instead used to buy more shares of the company's stock, immediately ask the company to give you a statement of the current number of shares owned by the conservatee. You may want to discontinue the reinvestment program because it is hard to keep track of reinvested dividends for your account to the court. Check with your lawyer if you're not sure what to do. **L**

Changing ownership Have the stocks or bonds reissued to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

Use the conservatee's social security number on IRS Form W-9. See the sample letter that follows.

If any of the conservatee's stocks or bonds are held in a brokerage account by a stockbroker, you can change the record ownership of the brokerage account in the same way that you change ownership of bank accounts. The broker must complete and file Judicial Council form GC-050, *Notice of Taking Possession or Control of an Asset of Minor or Conservatee*, when you have changed the title to any brokerage account to show the conservatorship, or when you open a new account showing the conservatorship. A blank copy of this form is included in Appendix F at the back of this handbook. As with the similar form used by banks, it is a good idea to ask the broker to provide you with a copy of the completed form when the original is sent to the court.

If the conservatee owns a number of stocks or bonds that are publicly traded, you will find them easier to deal with by opening a brokerage account in your name as conservator and placing the conservatee's shares into the account. The broker will handle all aspects of the transfer procedure, the share certificates will be safe, the broker will receive cash dividends or bond interest and will either send them to you or place them into a money-market account attached to the brokerage account, and you will receive periodic statements showing the current value of the shares and all dividend activity. If you later sell any of the shares, the broker will handle all aspects of the transfer procedure.

SAMPLE LETTER FOR STOCKS AND BONDS

P. O. Box 4392
Yreka, CA 96067
November 18, 2002

Retrodate Technology
44 Sea Lake Way
Mountain View, CA 94040

Attn: Stock Transfer Department

↓
RE: Conservatorship of the Estate of Mary Jane Orr,
also known as M. J. Orr

Shares of Stock in Retrodate Technology,
Certificate Number 210008070940

Dear Transfer Agent:

Enclosed please find a certified copy of Letters of
Conservatorship that verify that I have been appointed
conservator of the estate of Mary Jane Orr.

Ms. Orr apparently owned the stock certificate identi-
fied above. Please advise me of the number of shares
she now owns and your requirements for transferring
this stock to the conservatorship estate. Please for-
ward all forms that must be completed. Please also send
all future dividends to me.

Thank you for your assistance.

Sincerely,

Elaine MacArthur
Conservator of the Estate
of Mary Jane Orr

Enclosure: Certified copy of Letters of Conservatorship

*If the conservatee
sometimes uses a
variation on his or
her name, such as
a middle initial or
maiden name,
provide that
information after
"also known as."*

If, however, you discover that any of the conservatee's stocks, bonds, or mutual funds are owned with someone else or have another person named as beneficiary, be careful when changing ownership. Do not remove the co-owner or beneficiary without first checking with your lawyer. You should also check with your lawyer before selling these stocks or bonds or withdrawing from these mutual funds. You could be affecting the conservatee's estate plan or affecting the rights of the co-owner or beneficiary. For more information, see the discussion in Section 5(A) earlier in this chapter about bank accounts owned with someone else or having a designated beneficiary. **L**

D. Real Estate

Real estate, including the conservatee's home, vacation homes, rental property, undeveloped land, and deeds of trust, should be left in the conservatee's name. Record a certified copy of your Letters with the county recorder in each California county where you think the conservatee owns real estate. See the sample letter to county recorders in Section 1(C) earlier in this chapter. Recording the Letters should prevent the conservatee from selling the real estate or giving it away to someone who doesn't know about the conservatorship. It also should stop any loans the conservatee, or anyone else improperly influencing or controlling the conservatee, tries to get using the property as collateral.

If the conservatee's property has a building on it, make sure the insurance is current. You should consider removing unsafe structures that may be a source of legal liability.

E. Cars and Other Vehicles

Get the ownership certificates ("pink slips") of all the conservatee's cars and other vehicles such as boats, motorcycles, campers, and planes.

Transfer ownership to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

Keep vehicles safely stored and control their use. No one should use the conservatee's car or other vehicle except for the conservatee's benefit, and only if it is adequately insured and the insurance covers all drivers. Even if vehicles are stored and not used, remember to keep them insured. Renew the registration for any vehicle that is driven.

Vehicles, especially cars, lose value over time, so consider selling any vehicle that will not be used in the foreseeable future.

F. Debts Owed to the Conservatee and Missing Assets

Try to collect debts owed to the conservatee and try to get back assets that were taken from the conservatee wrongfully. If you are faced with either of these situations, speak with your lawyer to find out what can be done. **L**

G. Charge Accounts

Try to eliminate ways the conservatee could get into debt. For this reason, it is generally not advisable for any conservatee to have a credit card or an ATM card.

In rare situations, you may want to leave a charge account open for the conservatee's use. If so, put dollar limits on the use of the account and exercise careful control over it.

Cancel credit cards and ATM machine cards that are open in the conservatee's name. Collect and destroy all of these cards except those, if any, that you decide the conservatee can keep and use. See the sample letter that follows.

6. Inventorying and Appraising the Estate

As you locate the conservatee's property, make a list describing each item in detail. Use this list to help you prepare your Inventory and Appraisal.

See Appendix C at the back of this handbook for a sample Inventory and Appraisal. It is prepared on Judicial Council forms GC-040 and GC-041. Blank copies of these forms are also included in Appendix F.

The Inventory and Appraisal lists all of the assets owned by the conservatee on the date you were appointed and states their value on that date. The conservator lists the value of cash items such as bank accounts. The **probate referee** appraises all other items according to their fair market value. See Chapter 7, Section 1(C), for more information about the probate referee.

SAMPLE LETTER FOR CREDIT CARDS

599 Tyler Avenue
Los Angeles, CA 90004
October 1, 2002

National Express Card Company
P. O. Box 8823
Wilmington, DE 19805

*If the conservatee
sometimes uses a
variation on his or
her name, such as
a middle initial or
maiden name,
provide that
information after
"also known as."*

RE: Conservatorship of the Estate of Kazuo Carl
Nishikawa, also known as Kaz Nishikawa

Account No. 98-505-70-113

Dear National Express Card:

Please be advised that a conservatorship has been
granted for the estate of Kazuo Carl Nishikawa.
Enclosed please find a certified copy of Letters
appointing me conservator of the estate. Please immedi-
ately cancel this account and do not allow further
charges to be made to it.

I have located and cut in half the credit cards for
this account. The pieces are enclosed.

Please contact me if you have any questions.

Sincerely yours,

Suzanne Nishikawa
Conservator of the Estate
of Kazuo Carl Nishikawa

Enclosures:

Certified copy of Letters of Conservatorship
Credit cards

A. When to File

The Inventory and Appraisal must be filed with the court within 90 days after your appointment. To avoid being late, start the inventory well before the filing date so that the probate referee will have enough time to appraise the non-cash assets, complete the Inventory and Appraisal, and return it to you or to your lawyer for filing with the court.

Preparing an Inventory and Appraisal may not be a one-time obligation. Any time you discover assets owned by the conservatee when you were appointed but that you didn't know about until later, or you receive assets payable to the conservatee after your appointment (other than assets you obtain as a result of your own actions to invest and manage the estate, such as when you buy stocks or mutual funds with conservatorship funds), you must prepare and file a Supplemental Inventory and Appraisal describing these assets, in the same way you did the original Inventory and Appraisal, including appraisal by a probate referee if required. Assets shown in a Supplemental Inventory and Appraisal are valued as of the date you discovered or received them.

If you have collected assets and have prepared an Inventory and Appraisal, but you are close to the 90-day deadline because the referee is having difficulty completing the appraisal of some of the assets, you could prepare one or more Partial Inventories and Appraisals listing all of the cash assets and any other assets the referee can appraise in time to meet the deadline, to be followed later by a Final Inventory and Appraisal that includes the other assets. All of the partial inventories and the final inventory together must contain all of the conservatorship estate assets valued as of the date of your appointment.

If you sell estate real property more than one year after the date you were appointed conservator, you must obtain a probate referee's current appraisal of the property. This is called a Reappraisal for Sale, and is prepared on the same form and in the same manner as the initial inventory, except that the actual date of the reappraisal is identified on the form.

B. Why the Inventory and Appraisal Is Required

Preparing the Inventory and Appraisal is an important task. The Inventory and Appraisal has several purposes:

- To help you and the judge estimate how much income may be available over the course of the conservatorship to cover the cost of meeting the conservatee's needs

- To let the judge and other interested people know how much the conservatorship estate is worth
- To provide a list of the property for which you are accountable
- To help the judge determine the amount of your bond

C. Establishing the Value of Personal Belongings

It may be hard to establish the value of some personal belongings. With your inventory, give the probate referee your own informal opinion of how much items such as jewelry, coins, antiques, and artwork are worth. If you believe that these items have unusual value that isn't obvious—as with paintings or sculptures, for example—consider hiring a professional appraiser to value them. Send a copy of the appraiser's opinion to the probate referee with your inventory.

D. Challenging the Probate Referee's Appraisal

The more detail you give the probate referee, the more likely it will be that the appraisal is correct. In your inventory, or in correspondence to the probate referee accompanying it, alert the referee to any facts about the conservatee's assets that may reduce their value. For example, let the referee know if the roof on the conservatee's home needs repair.

No matter how much information you provide, the referee's appraisal may not meet your expectations. You have the right to question the appraisal, and, if your concerns aren't resolved, you may file a **petition** in the conservatorship proceeding asking the judge to resolve the dispute. **L**

7. Managing and Protecting the Estate

You will need a judge's approval before you do certain things. If you are not sure whether you need court approval, check with your lawyer. **L** If you act without a judge's permission and a loss results, you may have to pay for the loss out of your own pocket.

A. Storing and Protecting Assets

Store valuable furs, antiques, artwork, and excess furniture in an insured warehouse if the conservatee has no immediate need for them. For insurance purposes, take photographs of the conservatee's valuable personal belongings and household items and keep the photographs in the conservatorship safe deposit box. The conservatorship estate may pay the costs of storage and insurance.

WAYS TO PROTECT THE CONSERVATEE'S VALUABLE POSSESSIONS

- Remove valuables such as silver, art, jewelry, and furs from the house unless the conservatee wants to keep them at home.
- If the conservatee wants to wear jewelry, substitute less expensive jewelry. For example, if the conservatee wants to wear expensive pearls on a regular basis, substitute costume jewelry.
- If the conservatee insists on wearing valuable jewelry, alert the conservatee's relatives, friends, and lawyer that you are allowing the conservatee to wear his or her jewelry.
- Take an inventory of all valuables that remain in the home and photograph them. Keep this information in the conservatorship safe deposit box. Let everyone who comes into the house know that an inventory has been taken.
- Go through the house annually to check the inventory.
- Put locks on valuables when you can—for example, on china closets or closets in which valuables such as silver or jewelry are stored.
- Insure valuables; these can be added to homeowners' or tenants' policies. List and describe these items individually. Consider taking this step no matter who is in possession of these items.
- Engrave identification numbers on the television and on stereo equipment. You might use the conservatee's social security number. Be sure to let everyone know that these items are marked.
- If you hire an **aide** directly or through an agency, be sure to check references.
- If you hire an aide through an agency, make sure the agency screens, bonds, and insures its employees.

B. Preparing a Budget

In preparing the budget, your primary concern is to arrange for care and comfort that the conservatee can afford. Plan the budget with the conservator of the person and, if possible, with the conservatee. The budget should include estimates of expenses and income from all sources and take into consideration free or low-cost services available from community agencies.

The budget will be an important part of your overall plan for the conservatorship. See Chapter 6 for information about your plan.

C. Setting Up and Keeping Good Records

If you have access to a computer, the best way to keep records of the conservatorship checking account and other estate investments is with a personal-finance computer program such as Quicken®. The program will help you track all of the information you need about income and disbursements. It can be tailored to fit your exact requirements. For example, if you want to keep track of expenditures by category, you can easily set up the program to do that. You can keep track of income receipts associated with the properties that generated them, such as stock dividends from each company and rental income from each parcel of real property or from each rental unit of a single property. You can also buy checks that the program will print as needed. This feature is particularly helpful because the program requires you to enter information about each expenditure into your records when you write each check. You should also be able to use the program to prepare at least some of the schedules to be attached to your accounting. See Section 8 later in this chapter and Appendix D, a sample account and report. Be sure to save copies of your estate records on separate floppy or Zip® disks, not just on the computer's hard drive.

If you don't have a computer, the check register for the conservatorship checking account is your indispensable tool for keeping track of income and expenditures. The large type of register, called an executive or deskmaster register, is the best. It allows plenty of room for complete and detailed entries, particularly of deposits. The check register sample that follows was taken from a deskmaster register.

This type of register is offered with the desktop type of checkbook, which has three or more checks on each page. It's less convenient to carry around than a pocket or purse checkbook, but you will be glad you chose the desktop model when you or your lawyer prepare your accounting for the court.

For the check register to give you the most help when your accounting is prepared, it must be a complete record of all estate cash receipts and disbursements. ***You should deposit all income into the conservatorship checking account first***, even if you immediately write a check for the entire deposit to one of the other accounts, such as a savings or money market account. Clearly identify the source of each deposit in the check register. ***You should also make all expenditures by check from the checking account***, for the same reason. The important thing is to try to keep a complete record in one place of all receipts and expenditures of the conservatee's money.

If you can, arrange with the bank where the conservatorship checking and savings accounts are held to pay savings account interest into the checking account. Check the account statements frequently and add the amount of interest paid in from the savings account as a deposit in the checkbook register.

Cash Courts do not approve cash expenditures by conservators that do not show how the money was spent. For generic items such as groceries, write a check rather than spend cash. When you must use cash, keep a detailed receipt of each cash expenditure in case a judge or someone interested in the estate questions you about it later.

You can buy petty cash receipts in tear-off pads in any office supply store. Keep a pad of these with you at all times, fill one out for each cash expenditure, and attach the store's invoice or cash register receipt to it. Fully describe what was bought on each receipt if the store's invoice or cash register receipt doesn't say.

Keep only small amounts of cash on hand as needed for small day-to-day expenses, and keep it separate from your own cash. You may set up a petty cash system with a fairly low ceiling, say, \$50. Save the receipts for cash expenditures for a month, or for some other, shorter period, or until the total of the receipts approaches the ceiling. Replenish the petty cash fund by a check payable to "Cash" for the total amount of your receipts, so the total fund is restored to the ceiling amount. You should make a notation on the check and in the check register that the check is for replenishment of petty cash. Your accounting would show the actual expenditures of cash shown on the receipts, not the replenishment checks.

If you can afford it, it's better to pay all cash sums from your own pocket and then to reimburse yourself by check from the estate. You must still keep the detailed records described above. When you list the check in the schedule of **disbursements**, or payments, in your accounting, you should show yourself as the payee, describe the check as a reimbursement, and list the expenditures for which the check is reimbursement. See examples of reimbursement checks to the conservator and to the lawyer for the conservator in Schedule C of the sample account and report in Appendix D, at the back of this handbook.

If you believe that your conservatee can handle small amounts of cash for personal expenses, you can ask the court for permission to pay a monthly allowance directly to him or her. You may then write a check for cash in the allowance amount each month, give the cash to the conservatee, and enter the check in your records as an allowance payment. You will then be excused from accounting further for this sum. You should try to find out how the conservatee spends the money, however, in case you need to make adjustments later, and you should keep the allowance amount modest. Don't give the conservatee cash unless you have received court permission to pay an allowance.

Income Record all income paid to the conservatee, including the date it was received, the amount, and its source. If it isn't too hard to do, photocopy every incoming check.

Expenditures For every check you write on the conservatorship account, write down the date, to whom it was paid, and what it was for. Keep receipts for all purchases in chronological order, and write the check number and the date paid on each receipt.

Your record of income and expenditures should look like this:

| PLEASE BE SURE TO DEDUCT ANY PER CHECK CHARGES OR SERVICE CHARGES THAT MAY APPLY TO YOUR ACCOUNT | | | | | | | | | | |
|--|------|--|---------------------|----|---|------------|------------------------|----|---------|----|
| CHECK NO. | DATE | CHECKS ISSUED TO OR DESCRIPTION OF DEPOSIT | (-) AMOUNT OF CHECK | | ✓ | (-) CK FEE | (+) AMOUNT OF DEPOSIT | | BALANCE | |
| | | | | | | | | | 229 | 73 |
| - | 4/1 | Social Security (April) | | | | | 540 | 00 | 769 | 73 |
| 401 | 4/2 | Pacific Bell for 3/02 | 26 | 00 | | | | | 743 | 73 |
| - | 4/3 | Hamilton Federal Bank Interest (1st Quarter) | | | | | 85 | 90 | 829 | 63 |
| 402 | 4/3 | Ben Casey, MD (3/15) Office Visit - earache | 53 | 00 | | | | | 776 | 63 |
| - | 4/5 | Rental Income 110 Church Street #A (Mar.) | | | | | 995 | 00 | 1,771 | 63 |
| - | 4/5 | Rental Income 110 Church Street #B (Mar.) | | | | | 875 | 00 | 2,646 | 63 |
| 403 | 4/7 | Millard Fillmore Savings Mortgage Payment (4/02) | 850 | 00 | | | | | 1,796 | 63 |
| - | 4/8 | ABC Mfg. Co. Pension (Feb.) | | | | | 320 | 00 | 2,116 | 63 |
| 404 | 4/9 | Clerk of Superior Court - Certified Letters | 4 | 00 | | | | | 2,112 | 63 |
| 405 | 4/10 | Cash to housekeeper for misc. personal ex. (3/02) | 20 | 00 | | | | | 2,092 | 63 |
| - | 4/11 | Medicare Reimbursement for Ben Casey, MD (2/5 visit) | | | | | 41 | 00 | 2,113 | 63 |

The importance of keeping complete records If you follow the record-keeping tips in this handbook, it will be easier for you and your lawyer to prepare reports required by the court. *The importance of keeping complete records can't be overstated.* Conservators often regret not setting up an adequate record-keeping system from the start, because trying to piece together the information later from memory and old bank statements is difficult and time consuming, and it may be expensive as well. The court has the authority to make you pay for this added expense out of your own pocket.

Transactions involving key assets You may be asked by a judge to explain transactions that involve key estate assets. Be prepared by keeping accurate records and keeping all documents related to transactions involving the following:

- Stock or bonds owned by the conservatee

Transactions involving stocks and bonds Keep track of all cash dividends or bond interest, stock dividends, and stock splits and make sure that you make note of any automatic cash dividend reinvestments. These transactions often don't show up in your check register and therefore are easy to overlook.

If the estate includes stock of a number of publicly traded companies, or a large number of shares of one or two public companies, you should consider opening a stock brokerage account in your name as conservator and depositing the stock into the account. The broker's regular account statements will help you when you prepare your account and report.

- Rentals of property owned by the conservatee
- Sales of the conservatee's real estate and personal property
- Insurance claims that have been paid
- Debt repayments—write down the interest rate and list the security for the debt

D. Monitoring the Conservatee's Actions

As conservator, you are responsible for knowing what your conservatee is doing or wants to do about financial or property matters, and whether anyone is trying to influence or pressure him or her. If you think that the conservatee

is doing things that might damage him or her financially, or that you might have to fix later, check with your lawyer right away. **L** You are the person who is ultimately responsible for the conservatee's finances.

E. Monitoring the Conservatee's Assets That Are Controlled by Others

Sometimes some of the conservatee's property may be controlled by another person or institution—for example, a husband, wife, or trustee. As conservator, you must know how this property is being invested and used for the conservatee. If you have questions or concerns, ask this other person or institution. If you still aren't satisfied, bring your concerns to the attention of a judge with your lawyer's help. **L** Section 7(M) later in this chapter has more information about trusts.

F. Managing Investments and Retirement Plans

When you invest the conservatee's money and make decisions about his or her retirement plans, you are held to a higher standard of careful conduct than when you invest your own money or decide about your own retirement.

Making investments As conservator, you are expected to invest prudently and to protect estate assets. This means avoiding risky investments, but planning for reasonable growth, usually with a variety of investments.

Review the conservatee's existing investments to see whether they are still appropriate for his or her age, life expectancy, income requirements, and financial resources. Discuss any changes with the conservatee if this is possible. You should also discuss your investment plans with your lawyer, tax advisor, and stockbroker before taking action. Be sure to include in these discussions any plans to sell estate assets, whether you plan to reinvest the money from the sale or have some other purpose. There can be serious income tax consequences, for example, when you sell an asset the conservatee has owned for a long time. See also the discussion about selling assets in Section 7(G) later in this chapter. **L**

Automatic reinvestment of cash dividends is allowed, but this sort of transaction is difficult to keep track of for purposes of your accounting to the court. (See Section 8 later in this chapter and Appendix D for more on your account and report.)

Handling retirement plans Many conservatees have one or more pension plans, Individual Retirement Accounts (IRAs), or other retirement plans, such as a 401(k) plan, a Keogh plan, or a plan for **deferred compensation**.

You will need to determine the conservatee's rights and benefits under any plan. You should discuss such plans with your lawyer, especially if money is not already being withdrawn or distributed from a plan on a regular basis. It is your duty to take any action necessary to protect the conservatee's interests in such plans, taking into account his or her financial needs and the tax consequences of withdrawals or distributions. **L**

If the conservatee is already withdrawing money or receiving distributions from a retirement plan, check with the plan administrator to find out about any rights the conservatee has under the plan. Indeed, you should do this even if the conservatee is not yet withdrawing or receiving money from a plan. You will still need to determine the conservatee's future rights under it. For example, when the conservatee reaches a certain age, certain elections may have to be made, or a minimum withdrawal or distribution may be required.

G. Selling or Borrowing against Estate Assets

You may need to sell estate assets if, for example, there isn't enough money to support the conservatee, or an unused car is losing its value. You may need a judge's approval to sell or borrow against certain assets, so check with your lawyer before you act. **L**

Selling the conservatee's assets or using them to borrow money for the conservatee's living expenses can have consequences in a number of areas:

- The conservatee's current or future eligibility for public assistance programs such as SSI, Medi-Cal, and In-home Supportive Services may be affected by receipt of the proceeds of a sale or loan, or by increased income earned on those proceeds when they are reinvested.
- There may be income tax consequences, such as a large capital gains tax.
- There may be less property for the conservatee's heirs.

Think these consequences through carefully and get the advice of your lawyer, your tax advisor, and any involved public assistance agencies. **L**

Selling the conservatee's home or former home Because selling the conservatee's home will have an enormous effect on the conservatee, you must explore all other alternatives first. If no other solution can be found, you must obtain special court permission for the sale. A judge will not allow you to sell the conservatee's home unless you have discussed the proposed sale with the conservatee and have told the judge what the conservatee wants. The court

may send a court investigator to interview the conservatee to be sure the conservatee knows about the sale and to find out what he or she wants. If the conservatee does not want the home sold, the court may appoint a lawyer, at conservatorship estate expense, to represent the conservatee at the time you request court authority for the sale.

Alternatives to giving up the conservatee's home When the conservatee is low on cash, there are several ways to use the conservatee's home to get money to pay for in-home care and other things the conservatee needs to stay at home. Each of these methods has advantages and disadvantages. You will need a judge's approval before taking any action. Ask your lawyer and your tax advisor about these alternatives:

- **Sale of a remainder interest** The home is sold to a new owner. The conservatee is allowed to live in the home for the rest of his or her life. Often the buyer and seller will agree that the conservatee's estate will be responsible for upkeep. The selling price will be less than it would be if the conservatee's entire interest in the property was sold because the conservatee becomes a "free tenant," and the new owner has to wait to use the property.
- **Sale with leaseback** The home is sold for its full value, and the conservatee becomes a rent-paying tenant.
- **Rental** Sometimes it makes more financial sense to retain the conservatee's home and rent it out rather than sell it. That is especially true if the conservatee has owned the home for a long time. The sale of the home in that situation may incur a large capital gains tax. See also Section 7(K) later in this chapter for information about managing rental property.
- **Home equity loan** If the conservatee qualifies, a home equity loan will provide a lump sum of cash. The estate will then have to make monthly loan repayments. If the value of the home increases, it can be sold for full market value at a later date.
- **Reverse-annuity mortgage (RAM)** In many respects a RAM is the reverse of a regular mortgage. With a RAM, the lender gives the conservatee monthly loan installments. At the end of the loan, often when the conservatee dies, the debt usually is repaid by selling the home. The size of the monthly installments depends on the value of the home, the loan's interest rate, the length of the loan, and the loan's closing costs and related expenses.

For more information on these alternatives, read a free publication called *Home-Made Money: Consumer's Guide to Home Equity Conversion*, published by the American Association of Retired Persons, listed in Appendix E, "Suggested Readings for Conservators," at the back of this handbook.

Conservatorship sale requirements Once you have decided to sell some of the conservatee's property, and after you have obtained permission from the court if that is required, you must follow detailed and often complicated rules and procedures to complete the sale. These vary depending on the type of property sold and the reasons for its sale, but the following are highlights:

- The sale must be for a purpose authorized under the law. The authorized purposes are
 - Sales that are necessary because the estate's income is insufficient for the comfortable support and maintenance of the conservatee
 - Sales that are necessary to pay some (but not all) of the conservatee's debts
 - Sales that are for the advantage, benefit, and best interests of the conservatee or his or her estate
- For some sales that take place more than a year after your appointment, you must prepare a Reappraisal for Sale, using the same forms you used for the Inventory and Appraisal. You then must get the probate referee's appraisal of the property's current value and file the reappraisal with the court.
- To sell some kinds of personal property and all real property, you must post a notice of intent to sell in the courthouse and publish the notice in a newspaper.
- The terms of sale may be for all cash or part cash and part deferred payments, subject to approval of the court and subject to requirements for the security received by the conservatorship estate for the deferred payments.
- Most sales of real property, and personal property sold with it as a unit, must be confirmed by the court. This is a form of court approval after the conservator has agreed to sell the property to a specific buyer on agreed terms. The order confirming sale follows a hearing at which interested buyers other than the original buyer may appear and bid on the property. The court actually conducts an auction at the hearing. The order confirming sale is in addition to any required prior court

approval for the sale. Once a sale has been confirmed by the court, its propriety and terms cannot be questioned.

The petition for confirmation of sale and the order confirming sale are Judicial Council forms GC-060, *Report of Sale and Petition for Order Confirming Sale of Real Property*, and GC-065, *Order Confirming Sale of Real Property*. Blank copies of these forms are included in Appendix F, at the back of this handbook.

- Stocks or bonds that are listed on established exchanges or traded in the over-the-counter market may be sold without prior court approval or subsequent confirmation. However, such sales are subject to review and may be questioned at the time of the next account and report.
- Stocks or bonds that are not eligible for sale under the previous paragraph, and personal property, such as an unused car, that is depreciating in value or would incur loss or expense if kept, may be sold with prior court approval. However, that approval can be obtained immediately on application, without a fully noticed hearing. That kind of application is called *ex parte*, meaning without notice to other parties. The applications and orders authorizing the sale are Judicial Council forms GC-070, *Ex Parte Petition for Authority to Sell Securities and Order*, and GC-075, *Ex Parte Petition for Approval of Sale of Personal Property and Order*. Blank copies of these forms are included in Appendix F, at the back of this handbook.

In addition to court approval and other requirements, the sale of a conservatee's property may require unique language in agreements with real estate brokers, escrow companies, buyers, and others. All parties should be aware of the specific requirements of these sales. Try to deal with real estate brokers and others who have prior experience with them. You should also consult closely with your lawyer concerning all aspects of a sale of any of your conservatee's property.

CAUTION Selling or borrowing against estate assets can affect a conservatee's eligibility for SSI, Medi-Cal, In-home Supportive Services, and other public assistance programs. Check with these public assistance agencies to find out how additional cash proceeds of a sale or loan, or additional income earned on the proceeds, might affect the conservatee's eligibility.

H. Securing Adequate Health, Life, and Property Insurance

Check with the conservatee's insurance agent to see whether the conservatee and his or her property are adequately insured. If the conservatee doesn't have enough, or the right kind of, insurance, decide what's needed and arrange to buy it.

Pay any past-due premiums right away to avoid a lapse of coverage.

If the conservatee has duplicate or unnecessary insurance policies (which often happens when a confused person responds to television or newspaper ads), discuss them with your lawyer and the conservator of the person to decide which policies, if any, should be canceled. **L**

Health insurance Adequate health insurance for the conservatee is very important. You and the conservator of the person should figure out what care the conservatee will need so that appropriate health insurance is obtained. The conservatee may need supplemental Medicare insurance, for example. However, don't cancel an existing policy that provides coverage until you have completed arrangements for alternative coverage.

See Chapter 4, Section 3(A), for more information about health insurance. See also Appendix A, "Guide to Medicare, Medi-Cal, and Other Health Insurance," at the back of this handbook.

Life insurance Review the conservatee's life insurance policies. Before you change the amount of coverage or the beneficiary or borrow against the policy, ask your lawyer whether court approval is needed. **L**

You must have court approval to change the beneficiary of an insurance policy, even when the beneficiary is deceased.

Employer's liability insurance and workers' compensation If the conservatee or conservatorship estate employs anyone, for example, an aide, housecleaner, gardener, driver, handyman, or other service provider, make sure that there is proper worker's compensation insurance protection in case the employee is injured on the job. Do not assume that this will be covered under the conservatee's homeowner's insurance. If the employee comes from an agency or registry, do not assume that the agency or registry is providing the necessary coverage. It is your responsibility to verify that there is proper coverage.

Property insurance If the conservatee owns a building, make sure that it has enough fire and public liability insurance. Cars driven by the conservatee or the conservatee's spouse must be insured. Cars, real estate, and household belongings should be insured for their replacement value against fire, theft, and other hazards and against harm to third parties. Include coverage for work-related injuries of household help. You don't need a judge's approval to take out these types of policies.

If the conservatee owns a vacant building, verify with the conservatee's insurance broker, if known to you, or if not, with an agent for the insurance company identified in an insurance policy that concerns the vacant property, that there is insurance coverage in place for the property. Try to get any representations that there is existing coverage in writing.

If there is no existing coverage, check with the broker or agent, or your own insurance broker or agent, to see if insurance coverage is available for the property. You may find it impossible to get insurance for a vacant building, particularly if it is in a dilapidated condition. In that event, you may have to demolish the building or sell the property quickly. You should consult closely with your lawyer when there is a vacant building in the conservatorship estate. **L**

I. Paying Taxes

You are responsible for filing income tax returns for the conservatee. File tax returns for the conservatee on federal Form 1040 and California Form 540. You may hire a tax preparer to help. Make sure that real estate taxes, personal property taxes, gift taxes, and employment taxes are paid on time. The "Checklist for Hiring and Paying an Aide," in Section 7(J) later in this chapter, discusses employment taxes for aides.

If you can't find a copy of the conservatee's past two federal and state tax returns, write to the Internal Revenue Service and the California Franchise Tax Board to request copies and to find out if all returns have been filed. See the sample letter that follows.

You may request copies of federal income tax returns by completing and delivering IRS Form 4506, *Request for Copy or Transcript of Tax Form*.

You must also notify the IRS that you are the person now responsible for tax filing and payment on behalf of the conservatee. You may use IRS Form 56 for this purpose.

SAMPLE LETTER FOR TAX RETURNS

2451 Folsom
Oakland, CA 94619
January 8, 2002

Internal Revenue Service
Fresno, CA 93888

—or—

Franchise Tax Board
Sacramento, CA 94267-0031

RE: Conservatorship of the Estate of Edna Mae
Washington, also known as Edna Mae Johnson

Conservatee's social security number: 111-22-3333

Dear Conservatorship Coordinator:

I have been appointed conservator of the estate of Edna Mae Washington. A copy of my Letters of Conservatorship is enclosed.

Please send all future correspondence concerning the conservatee to me at the above address. Also please send me a copy of the last two income tax returns that were filed by the conservatee, or a copy of any form necessary to obtain these returns.

Thank you.

Truly yours,

Earl Washington
Conservator of the Estate
of Edna Mae Washington

Enclosure: Certified copy of Letters of Conservatorship

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

J. Hiring and Paying Aides for the Conservatee

If you or the conservator of the person have employed an aide for the conservatee, you are responsible for paying the aide; paying payroll taxes such as social security, Medicare, and unemployment; filing tax reports; and obtaining workers' compensation insurance. If you hire an aide through an agency, you will be spared most of these duties.

See the "Checklist for Hiring and Paying an Aide" that follows.

For more information on in-home aides, see Chapter 4, Section 7(C).

KEEPING GOOD EMPLOYMENT RECORDS

Keep these records for at least four years:

- Your employer identification number
- The amounts and dates of all wage payments
- The value of noncash compensation such as meals or lodging
- The aide's name, address, social security number, and a forwarding address
- Copies of all W-4 forms
- The amounts and dates of tax deposits you have made
- Copies of all employment tax returns you have filed
- The dates of employment for each aide
- The reason for an aide's termination (If you fire an aide, be sure to record the reasons.)
- Detailed records of the aide's job-related illnesses or injuries

CHECKLIST FOR HIRING AND PAYING AN AIDE

Done?

- ☐ **Check the aide's U.S. residency document.**

You must ask all new employees to give you Immigration and Naturalization Service (INS) Form I-9. The purpose of this completed form is to prove that the aide is a legal U.S. resident or citizen. If you hire someone without getting this form, you could be fined as much as \$10,000.

If you need more information, contact the nearest INS office to request INS Booklet M-274, *Handbook for Employers*.

- ☐ **Obtain workers' compensation insurance.**

Anyone who works in the conservatee's home must be covered for injuries that take place on the job. You can usually get workers' compensation coverage from the conservatee's homeowner's or renter's insurance company for an additional premium.

- ☐ **Follow federal and state wage and hour rules.**

- ☐ **Pay or withhold employment taxes.**

You may be responsible for several employment taxes. These taxes are based on the aide's taxable wages. Wages may include meals, lodging, health insurance, and other items provided by you as employer, unless they are for your convenience and are not compensation.

For help employed in the home, federal and state income taxes need not be withheld unless you and the aide agree to withhold them. Possible withholding taxes are as follows:

1. Federal income tax

If you and the aide agree that you should do so, withhold federal income tax. Use the current year's Internal Revenue Service (IRS) Publication 15 to calculate this tax.

2. California income tax

If you and the aide agree that you should do so, withhold state income tax. Use the current year's Employment Development Department (EDD) Publication 44 to calculate this tax.

CHECKLIST FOR HIRING AND PAYING AN AIDE

Done?

3. Social security and Medicare

The conservatorship estate must pay half of this tax; the other half is withheld from the aide's wages. Use the tables in the current year's IRS Publication 15.

4. California disability insurance fund

Use EDD Publication 44 or 4525 to figure this withholding tax.

5. State and federal unemployment insurance

The conservatorship estate, and not the employee, pays these unemployment insurance taxes.

☐

Get a federal employer identification number.

You can obtain Form SS-4, *Application for Employer Identification Number*, from the nearest IRS office.

☐

Have the aide complete federal tax Form W-4.

If you and the aide agree to withhold income taxes, the W-4 form gives you the information you need to know how much tax to withhold from the aide's pay. If the aide hasn't given you a completed W-4 form by the time you first pay him or her, and the two of you have agreed that you will withhold federal and state income taxes, you must withhold the maximum tax (single with no withholding allowances).

☐

Register with the California Employment Development Department.

You can obtain Form DE-1 from an EDD office. This form must be filed within 15 days of employing and paying a household worker wages of \$750 or more in any calendar quarter.

☐

File tax reports.

☐

Deposit withheld taxes with the appropriate agency.

At set times, you must deposit withheld state and federal income taxes and social security, Medicare, and disability insurance taxes with the state and federal governments. Check with the IRS or the EDD to find out when payments are due.

☐

File a summary of employment taxes paid.

By April 30, July 31, October 31, and January 31, you must file a sum-

mary of state and federal employment taxes that you have paid to the government in a calendar quarter. Use Form 941SS for federal taxes and Form DE-3BHWX for California taxes.

You must file every quarter, even if you didn't employ anyone for a particular quarter. There may be a penalty if you don't file. If you stop employing aides, write "FINAL RETURN" on the top of your last quarterly return.

☐

Give the aide a W-2 form.

You must give the aide a federal Form W-2 by the end of January of each year. Send a copy of the W-2 form to the Social Security Administration by the last day of February.

☐

Report unemployment tax.

Mail federal unemployment insurance tax returns on Form 940 for the previous year by January 31. File California unemployment insurance tax returns quarterly on Form DE-3HWX.

You might want to consider hiring a payroll services firm to handle some or all of this employment paperwork.

Online forms and publications Many tax forms, tax publications, and other agency forms or publications may be obtained through Internet sites maintained by the agency.

IRS: *www.irs.gov* (or telephone [800] 829-1040)

Franchise Tax Board: *www.ftb.ca.gov* (or telephone [800] 852-5711)

INS: *www.ins.usdoj.gov* (or telephone [800] 375-5283)

K. Managing Real Property

The most challenging task for a conservator of an estate that includes real property is to manage property that is or will be occupied by residential or business tenants. There are also other difficult issues that may affect estate real property whether or not it is leased or rented.

Rental property The estate may contain property that is being rented or should be prepared for rental. Perhaps you have decided to lease or rent the conservatee's home rather than sell it, or the conservatee already owns rental property. As conservator, you now have all of the legal responsibilities of a landlord regarding this property. Whether the property is small or large, you must comply with all of the laws regulating the rental of property.

Property management can be very complicated. There is a risk of loss to the estate if you do not handle it properly. If the estate has, or plans to have, rental property, you should discuss the situation fully with your lawyer to make sure you have the necessary information and advice. One of the things you and your lawyer will want to consider is whether you should hire a professional property management firm to manage the rental property. See the discussion that follows. **L**

Some of your responsibilities relating to rental property are

- Making sure that you have proper leases or rental agreements with all new tenants
- Reviewing existing leases or rental agreements, or obtaining new written agreements if the conservatee did not do so
- Making sure that the conservatee has set aside all legally required tenant deposits in a separate account
- Making sure that the property is safe and in compliance with all fire, building, and safety codes (see also following discussion on disposal of toxic waste.)
- Making sure that there is proper and sufficient fire and liability insurance covering the property *as rental property* (especially when converting the conservatee's home to rental property for the first time)
- Collecting all rents due to the conservatee, and taking necessary actions against all nonpaying tenants

- Paying all expenses of the property, such as insurance, property tax, mortgage, gardening, repairs, and utilities if the tenant does not pay them
- Keeping clear records of all rental property income and expenses, for use when the conservatee's tax returns and your accounting are prepared
- Respecting tenants' legal rights
- Learning about and complying with all local rent control ordinances or regulations

Owners of large residential rental properties often hire professional property managers to handle these tasks. Unless you are an experienced property manager, live near all of the conservatee's properties, and have the time to devote to property management, you should seriously consider using a property manager for residential rental property of any size, and for any leased or rented commercial or industrial property.

If you hire or retain a property manager, remember that you as the conservator are still the person responsible for supervising the manager's activities, making sure that all of the necessary work is done properly, and that the manager gives you clear, complete, and correct reports.

Megan's Law requirements Megan's Law requires registration of the names and area of residence of known sex offenders against children. Anyone who sells or rents out any real property must disclose to buyers or renters that they can look up this information at local police stations. You need to check to see that the sale or rental listing form you are using contains information about this law.

Property containing toxic waste or causing pollution Property owned by the conservatee may contain toxic waste or materials. There are very strict laws, federal, state, and local, about how such materials must be handled and about pollution generally. Violating any of these laws can result in prosecution or large fines. Payment for fines could come out of your own pocket if a court determines that you did not act properly in observing these laws as conservator.

It is important for you to learn how property has been used or is currently used and to determine whether it may contain toxic materials or whether it is causing pollution. If there is any risk that toxic materials may affect estate property, check with your lawyer to find out how to comply with the law and protect both the estate and yourself. **L**

Toxic materials and pollution may include the following:

- **Residential property** Old paint, household or garden chemicals, pest poisons, waste motor oil, used batteries, automotive chemicals, and asbestos
- **Commercial or undeveloped property** Chemical waste, medical waste, underground fuel or chemical tanks, water or air pollution, improper dumping, and improper sewage disposal

Vacant property If the conservatorship estate owns vacant houses, buildings, or land, it is your responsibility to make sure that the property is properly insured, fenced, or otherwise secured, and kept clean and in compliance with all local fire and safety laws. If you can't do these things, you may have to sell the property. See Section 7(H) earlier in this chapter for information on insurance for vacant property. Consult your lawyer about how to handle vacant real property of any kind. **L**

L. Conservatee's Will

A will is an important and very private document. If you find the original or a copy of the conservatee's will, store it in the safest possible place, such as in the conservatorship safe deposit box or with your lawyer, particularly if he or she has an office safe. Keep all wills you find—not just the latest one, the one you think is the “fairest,” or the one you think the conservatee really wants.

CAUTION California recognizes handwritten wills. They don't have to be witnessed or follow any particular format. What you think is merely a note, a memo, or an unmailed letter may be a legally valid will. Check with your lawyer if there is any possibility that a handwritten document you find might be a will. **L**

Do not talk about any of the conservatee's wills with anyone but the conservatee and your lawyer. Make sure that you discuss the conservatee's wills with your lawyer. **L**

You may find that the conservatee already has given his or her will to a lawyer for safekeeping. If you need to know what is in the will and the lawyer won't tell you, ask your own lawyer what to do. **L**

The will may contain information you need such as the following:

- The name of the **executor**.
- The conservatee's request for specific funeral or burial arrangements and who is supposed to make them.
- Whether the conservatee wants to leave someone a specific piece of real or personal property. You need to know this if you are planning to sell or make a gift of any property so you won't sell the property left to someone in the will or give that property to someone else.

The conservatee does not lose the legal right to make a new will or to amend an existing will because of the conservatorship. However, whether any change in a will made by a conservatee is effective will depend on the conservatee's mental competence at the time the change is made. The fact that a conservatorship is in place will be a factor in resolving that issue.

If the conservatee asks you to help him or her change a will or prepare a new one, contact your lawyer for advice about what to do. **L** If the conservatee has a court-appointed lawyer, let him or her know as well.

If you believe that the conservatee's proposed change is appropriate but his or her mental competence is likely to be questioned by someone adversely affected by the change, you may request the court to authorize you to sign a new will or an amendment to an existing will on behalf of the conservatee. This kind of request is known as a **substituted judgment petition**. Such petitions are made in a wide variety of situations. However, they can be very complex and are often difficult to prepare. You should not try to prepare and file a substituted judgment petition without a lawyer. **L**

M. Trusts

The conservatee may be involved in a trust that contains some or all of his or her assets, or that pays money or distributes property to him or her. It is your responsibility to protect all trusts that concern the conservatee. Trust papers should be kept in a safe deposit box. Trusts should be kept confidential—discuss them only with your lawyer, and, if your lawyer recommends, with the trustee. **L**

Look carefully at any trust that affects the conservatee, especially one that the conservatee set up. Contact the trustee identified in the trust documents and your lawyer. **L** Ask yourself these questions:

- Did the conservatee understand what he or she was doing when the trust was set up, when it was amended, or when he or she transferred property to the trustee?
- Is the trustee administering the trust and its property in the manner called for in the trust documents?
- Is the trustee acting in the conservatee's best interests?

If the answer to any of these questions is no, get your lawyer's advice about what to do. In any event, stay informed about what the trustee is doing. **L**

If the trust documents give the conservatee powers over the trust or over property held by the trustee, such as the power to modify or to revoke the trust or the power to designate who receives trust property (a **power of appointment**), you may ask the court for authority to exercise the power. This request would be another example of a substituted judgment petition, discussed in Section 7(L) earlier in this chapter. **L**

Sometimes the court will authorize a conservator to establish a new trust for the benefit of the conservatee and others and to transfer some or all of the conservatee's property to the trustee of the trust. This is often a better way of creating an estate plan for the conservatee than signing a new will and is one of the more common uses of the substituted judgment petition. **L**

N. Making Funeral and Burial Arrangements

When you look for assets and important papers, try to find out what arrangements, if any, have been made for funeral services, burial, or cremation. Documents describing these arrangements are often found in the conservatee's home or in a safe deposit box. These arrangements may be mentioned in the conservatee's will or in a document known as a **power of attorney for health care**. You also may find a funeral or burial prepayment receipt or insurance policy.

If the conservatee had a spouse or other close family member who recently died, ask the funeral home or cemetery that handled those arrangements whether the conservatee has made funeral arrangements. The death certificates of deceased family members usually note the name of the funeral home and cemetery.

Ask the funeral home if the conservatee has signed all the necessary papers, such as a cremation authorization. Some documents may be signed only by the conservatee or his or her next of kin.

If your research doesn't turn up anything, ask the conservatee what he or she prefers, if the conservatee is able to discuss it comfortably and clearly. If you can't discuss this with the conservatee, plan what you will do when the conservatee dies.

If the conservatee's will says that the executor should make funeral or burial arrangements, contact him or her as soon as you learn of the conservatee's death. If there is a person with authority to act concerning these arrangements under a power of attorney for health care, contact him or her as soon as you can. If the conservatee is in a **care facility**, its business office will ask you for the name of the funeral home. In any case, don't leave the conservatee's funeral or burial arrangements until the last minute.

8. Reporting and Accounting to the Court

Even if you read nothing else in this handbook, you should read and consider very carefully the following discussion of your accounting responsibilities as the conservator of an estate. If you have any questions about anything you read in this section of the handbook, discuss them with your lawyer immediately. **L**

What accounts are and when they are due You must report to the court on your activities as conservator of the estate no later than one year after your appointment, at least once every two years after that, and when your duties as conservator end. The report must be typewritten or prepared on a computer and contained in a document called a petition or a petition and report. The petition and report must describe what you have done during the time period covered by it and should petition, or ask, the judge to approve your actions. It should also describe the general physical condition, type of residence, level of care, and other circumstances of the conservatee.

The petition and report must be accompanied by a detailed accounting of all transactions in the conservatee's property that occurred in the period covered by the report. The accounting is similar to a business's financial statements, explaining the estate in dollar figures and giving details of estate receipts and expenditures.

The petition and report should explain any entries in the accounting that cannot be readily understood and should describe any sales or other changes in the assets of the conservatorship estate and any other unusual financial transactions. If you or your lawyer want the court to authorize payment of compensation from the conservatee's estate for your services during the period of the report, your request would also be included in the petition and report.

The accounting, the report, and the petition are parts of one document. They are sometimes referred to together as the **accounting**, the **account**, or the **account and report**. In this chapter, the term **accounting** refers to the accounting portion of the document only, **report** or **petition and report** refers to the report portion of the document only, and **account** or **account and report** refers to the entire document.

WHAT MUST BE INCLUDED IN AN ACCOUNTING

- The value of assets on hand at the start of the reporting period
- The amount of any supplemental appraisals during the reporting period
- All income received by the conservatorship estate during the reporting period
- Gains and losses from sales of assets during the reporting period
- All expenditures of conservatorship funds during the reporting period
- The value of assets on hand at the end of the reporting period

Format of the accounting The accounting must be prepared in a special format required for probate accountings. The petition and report are narrative statements. If you have a lawyer, he or she will generally prepare the petition and report, although you will provide the lawyer with most of the information needed to complete that task. You and your lawyer should work out who will prepare the accounting. The rest of this section of the handbook will help you do that. **L**

See Appendix D, "Sample Account and Report," at the back of this handbook.

The first and subsequent accounts and reports Each account covers a period of time with specific beginning and ending dates. When the conservatorship ends and the conservator has been discharged, every day it was in effect will have been included in a period covered by an account and report.

The first account and report covers a period that begins on the date that Letters of Conservatorship were issued or sometimes on the earlier date that Letters of Temporary Conservatorship were issued. The period usually ends on the last day of the month before or including the first anniversary of the beginning date. Subsequent accounts may cover up to two-year periods, beginning

with the day after the ending date of the prior account, although the conservator may choose to account for shorter periods. The final account covers the period from the day after the ending date of the last prior account to the date that the conservatorship ends, either by the conservatee's death or restoration to capacity or by removal of the conservator. An account that is not a final account is also called an **account current**.

Some courts schedule hearing dates near the due dates of accounts and reports to monitor their preparation and to see that they have been filed on time. If your court does this and you miss the deadline, you and your lawyer may have to appear in court on the scheduled date and explain why you failed to file your account and report on time. If the account is on file by the scheduled hearing date, the court usually excuses attendance in court on that date.

Courts that do not regularly schedule this kind of hearing still monitor their conservatorship files. If an account and report becomes seriously past due, the court may order you to appear to give an explanation, may order you to file the account and report by a specific future date, or may even remove you as conservator. If you are removed, you will still have to complete and file your account and report.

Whether or not the court schedules a hearing to monitor the completion and filing of an account, every account and report that is filed is assigned a hearing date, usually about a month after it is filed. Your lawyer is generally expected to attend this hearing to answer any questions the court may have concerning the account. If your lawyer attends the hearing, he or she may need your presence in court as well. **L**

Your lawyer must mail advance written notice of the time and place of the hearing on your account and report to the conservatee and to others interested in the conservatorship, and he or she may also be required to send complete copies of the account and report to these persons. **L** The written notice is prepared on Judicial Council form GC-020, *Notice of Hearing Guardianship or Conservatorship*. A copy of this form is included in Appendix F, at the back of this handbook.

If you do not have a lawyer, you will generally be required to attend the hearing on your account and report and will have to see that the written notice is sent.

If the persons given notice don't object to the account and report, you or your lawyer may be excused from attending court, and the account and report will be approved by the judge without a hearing.

On the other hand, if the conservatee or someone else with an interest in the conservatorship files written objections to the account and report or appears at the hearing and advises the court that he or she intends to file them, the hearing will be postponed to give that person an opportunity to do so. After the objections have been filed, the account and report will proceed as a contested matter.

Each court has its own way of handling contested accounts. At the very least, however, the matter will not be resolved quickly unless the parties involved can settle their differences in a way satisfactory to the court. You should not attempt to defend your account and report against objections without a lawyer. **L**

Preparation of the accounting Presentation of your account and report to the court is the most important step in your management of the conservatorship estate. You can't afford to wait until the last minute to prepare the accounting portion of the account and report. Therefore, your preparation of the accounting should begin as soon as you begin managing the conservatee's assets. All financial transactions must be carefully documented and organized so the accounting can be thoroughly, promptly, and accurately prepared. The following suggestions will help you reach this goal.

- Place each statement or other document that is received or created by you for each conservatorship asset or bank account in chronological order in a separate file for that asset or account. Review these documents periodically to make sure that none are missing. If any are missing, take steps immediately to obtain replacement copies so that your records remain complete.
- Check statements from banks, stockbrokers, and other institutions promptly on receipt and **reconcile** the cash accounts. Delay in reconciliation may result in the loss of the right to recover missing funds caused by bank errors. Personal finance computer programs are very useful for reconciling cash accounts.
- Investigate automatic deposits and payments to and from the conservatee's existing bank accounts as soon as you become aware of them because they may disclose additional assets or estate obligations you didn't previously know about.
- You should not generally arrange for automatic payments from any conservatorship account you establish because it is too easy to forget that such payments have been made when you prepare your accounting many months later.
- Automatic deposits to an account, like social security payments, cause fewer difficulties than automatic payments from the account, but you should enter them in your check register at the same time every month, no

later than the time you get your statement for the account showing the deposit, and you should be alert to periodic changes in the amounts deposited. All automatic deposits should be made to the main conservatorship checking account rather than to a savings account.

- You must keep track of interest deposits to savings accounts that are not reflected in your check register. Don't rely on passbook-type accounts. You should arrange for all savings accounts to provide monthly or quarterly statements showing interest income and withdrawal activity.
- Withdrawals from savings accounts to meet estate expenses should be deposited into the estate checking account and spent from there rather than directly from the savings account.
- You should try to pay every expense by check rather than cash. If you find it necessary to spend small amounts of cash, it is better to spend your own cash and seek reimbursement from the estate by check rather than to carry estate cash with you for this purpose. In any event, make sure that you get a receipt for all cash purchases and make a note of what was bought, the amount of cash spent, the purpose of the purchase, and the date of the transaction.
- Note the source of each deposit to the checking account in the check register so you will be able to reconstruct the transaction when you prepare your accounting. Most of the time, it is a good idea to use only one checking account for all of the conservatee's finances. However, if you are managing one or more pieces of real property that generate income as well as expenses, you might consider using a separate checking account for each property. If you do that, make sure that each account receives deposits only from income received from the property assigned to it, and that payments are made from that account only for expenses associated with that property. Be alert to bank charges deducted directly from these separate accounts.
- Stock brokerage accounts may come with money-market accounts attached to them that earn interest and allow check writing privileges. This kind of account is useful because it enables the estate to earn interest on amounts invested with a broker that are temporarily not being used to purchase stocks, bonds, mutual fund shares, or other investments sold by the broker. However, you should not routinely pay estate expenses directly from this account. Instead, you should periodically transfer excess cash from it to your regular conservatorship bank account, and then pay all expenses from that account. You should also be alert to automatic interest deposits to this account and automatic deductions from it for the broker's fees and other charges.

Court requirements for accountings The law and the court impose high standards on you as conservator in the management of the conservatee's estate. Each transaction must be accounted for in sufficient detail to inform the court how the conservatee's money was spent, what was sold or purchased, and how well income was collected during the period of the account. Every item of income and every expenditure must be described in your records and in the accounting, showing the following about each transaction, in addition to its date and its amount:

- To whom a disbursement was paid, or from whom income was received
- The time period covered by the payment (example: "Rent for May 2002")
- The purpose of the expenditure (example: "Clothing for conservatee")

If you reimburse yourself for expenses paid from your own funds, describe to whom you paid the funds on behalf of the conservatee, the amount of each expenditure, and what was purchased for the conservatee. You must obtain and retain receipts for all of these expenditures and organize them so you can retrieve them if you are required to show them to the court.

At the time you file your accounting, the court will require you to file *original* account statements from banks and other financial institutions or from other institutions such as stockbrokers for all accounts containing cash or assets of the conservatorship estate. The statements must show the balance in each bank account as of the last day of the period covered by the account and report.

The first account and report must also be accompanied by *original* bank statements showing the account balance of each of the conservatee's bank accounts immediately before the date you were appointed conservator. (That is, the date of the court's order appointing you, not the date that your Letters of Conservatorship were issued.) If your account and report shows a balance for any bank account different than the balance shown in the bank's statement for that account, you must explain the differences in your accounting or in your report.

If you could not find the original statements from the conservatee's accounts in his or her papers, you will have to obtain duplicates from the banks or other institutions and explain to the court why you can't file original statements. The time to start arranging for this is as soon as you qualify as conservator, not just before your accounting is due. See the sample letter to the conservatee's bank in Section 5(A) of this chapter.

The court or a person interested in the conservatorship may demand that you produce the records that support the transactions shown in your accounting. Keeping your records organized and complete early in the process and thereafter for as long as you are the conservator will enable you to satisfy the requirements imposed on you when you file and present your accounts and reports.

Use of an accountant Accountings must be prepared in a format unique to probate court accountings. Many accountants are unfamiliar with court accountings, which are considerably different from the business financial statements they usually prepare. If you want to use an accountant, you should try to find one who prepares federal estate tax returns for the estates of people who have died. The format of conservatorship accountings is identical to the format used in decedent's estates. It is to some extent based on the requirements of the federal estate tax return.

You may find that the conservatee's estate is too small to support an accountant's fee for maintaining estate records and preparing accountings, particularly if you are also going to request compensation for your services. Even if you can't afford an accountant for all services, you may be able to consult one on an as-needed basis, particularly for advice on how to set up and maintain your record-keeping system.

You should check with your lawyer before you attempt to prepare your accounting yourself or before you hire someone to do it for you. **L**

Accountings prepared by your lawyer Your lawyer may prefer to prepare the accounting, have his or her staff prepare it, or may bring in another professional familiar with probate court accountings for this task. **L** If so, you should consider delivering your records or copies of them to your lawyer on an ongoing basis during the year—say, monthly or quarterly, instead of just before an account is due. If you do that, when the due date comes, whoever prepares the accounting should be able to complete it quickly. If records delivered months before the accounting's due date show a problem, there will be more time to resolve it.

Use of a computer If you plan to prepare the accounting portion of the account and report yourself, it is recommended that you maintain your records using a personal-finance computer program. You will be able to keep detailed records of income or expenses tailored to your needs, you can easily reconcile your cash accounts, and you may be able to print directly from the program, in final form suitable for filing, some or all of the schedules of your accounting, particularly the schedule of expenditures.

Small-estate waivers Conservators of small estates may be excused from making regular reports to the court, but they still must keep complete records of how they manage their conservatee's income and assets. The court may ask for an accounting at any time, and the conservator will have to give a final accounting at the end of the conservatorship. Ask your lawyer whether the estate you are managing qualifies for a small-estate waiver. **L**

9. Making Payments from the Estate

A judge will not automatically approve expenditures that you may believe are in the conservatee's interest. Other people involved in the conservatorship may have a legal right to object to particular expenditures as well. If you aren't sure whether an expenditure is proper, or if you think someone might object, speak with your lawyer before you spend the money.

A. Paying Lawyer's and Conservator's Fees

You, the conservator of the person, the lawyers for each of you, and the conservatee's lawyer, will be entitled to receive reasonable fees—compensation for your services—from the conservatorship estate if they are requested and *if a judge first approves them*. Never pay these fees without prior court authorization. If you do, you may have to reimburse the conservatorship estate or the surety company on your bond from your own pocket, plus interest, and you could be removed as conservator.

You may pay without prior court approval costs incurred by your lawyer at the beginning of the conservatorship, including the court's filing fee and the first year's bond premium. This kind of expense is called an expense of administration, a direct cost of the conservatorship proceeding. Once the conservatorship has been set up and you have collected the conservatee's funds, you may directly pay expenses of administration without prior court approval.

However, many courts will not allow you to reimburse your or your lawyer's photocopy and ordinary postage costs, mileage or other local travel and parking expenses, or your lawyer's secretarial and word processing expenses if you or your lawyer also ask for fees. These costs are considered overhead expenses, to be reimbursed in the compensation approved by the court. Paralegal costs are treated as lawyers' fees, payable only on order of the court.

If you do not ask for compensation for your services, the court may allow you to reimburse yourself for overhead expenses. You will have to keep good

records of these expenses and should not reimburse yourself for them until they have been approved by the court.

Other costs, such as long-distance telephone charges, express-mail charges, or extraordinary travel expenses, may be allowed in the discretion of the court. If there is any question, you should defer direct payment by the estate or estate reimbursement of discretionary costs paid by you or by your lawyer until the court has approved them.

You may not ask the court for fees until 90 days after you have been appointed and you have filed the Inventory and Appraisal with the court. However, if you have good cause, you can ask the court to allow you to request compensation within that time.

You or anyone else eligible to request fees from the conservatorship estate may petition the court for an award of compensation, together or separately, at any time after the initial 90-day period without prior court permission. However, the court may require you as conservator of the estate to file an account and report whenever any eligible person requests fees because the court prefers to consider fee requests when it can see the current condition of the estate as shown in an up-to-date account and report. For this reason, fee requests are usually made as part of accounts and reports, and the requests of conservators of the person and of the estate and their lawyers are usually combined.

Your petition should request specific amounts to be paid to you and your lawyer and should show the judge how you calculated these amounts by describing in detail the number of hours worked, the hourly rate, and the work that was done. The sample account and report in Appendix D includes a declaration from the lawyer supporting his fee request. It does not include a similar statement from the conservator because he is asking for a nominal amount to handle his mother's affairs. However, if you are going to ask for full compensation for your services, you would prepare (or your lawyer would prepare for you, based on information you provide) a declaration describing your services in detail.

To support your request for compensation, you will need to keep a good record of the services you provide. Immediately following is an example of such a record, showing the date each service was performed, a description of each service, and the amount of time spent performing each service, stated in tenths of hours.

You may not ask for fees for 24-hour-a-day care. If the conservatee lives with you, keep track of the time you actually spend tending to his or her needs and affairs. You may be paid only for these hours.

SAMPLE RECORD OF SERVICE TO CONSERVATEE

| 2002 SERVICES | | |
|--|---|------------------------|
| Conservatorship of John Jones Lucy Jones, Conservator | | |
| DATE | DESCRIPTION | DURATION OF SERVICE |
| 4/2/02 | Took John to grocery store | .75 |
| 4/3/02 | Phone call to attorney's office about accounting | .2 |
| 4/5/02 | Reviewed bills, wrote and mailed checks for payment | .9 |
| 4/6/02 | Sorted through mail and documents, filed, paid bills | 2.5 |
| 4/8/02 | Inventoried furniture in John's house | 6.0 |
| 4/10/02 | Phoned Social Security re late checks | .3 |
| 4/12/02 | Took John shopping at Target | 1.75 |
| 4/13/02 | Prepared for income tax preparation appointment | 1.5 |
| 4/16/02 | Took John to appointment with Dr. Leone | 1.8 |
| 4/17/02 | Met with accountant for income tax preparation | 1.5 |
| 4/20/02 | Phoned John's sister to report his wishes for birthday party | .3 |
| 4/21/02 | Picked up completed income tax forms from accountant | .4 |
| 4/23/02 | Took John to dentist appointment with Dr. Marshall | 1.8 |
| 4/24/02 | Discussed rental of John's house with property manager | .7 |
| 4/28/02 | Cleaned and repaired John's residence in preparation for rental | 5.0 |
| 4/30/02 | Phoned attorney regarding lease signing | .25 |
| | Total hours: | 25.65 |

The judge will review your and your lawyer's requests for fees and will decide what amounts are reasonable that may be paid from the estate. One of the factors the court considers is the estate's size. Even if the court believes that a request for fees is otherwise reasonable, it may award less than requested because the court believes that the estate is too small to support the requested amount plus all other demands on it.

B. Making Gifts from the Estate

You may not give gifts of estate money or assets to yourself or anyone else without a judge's prior approval. You need court approval, even if the conservatee asks you to give the gift, and even if he or she has given similar gifts in the past.

C. Reimbursing Yourself for Expenses You Have Paid

You may reimburse yourself for small, reasonable expenses that you've paid for the conservatee with your own money, but it's not a good idea to make this a regular practice. Use your own money only in emergencies or as a cash advance for small amounts, even though it may seem convenient at other times, and make sure that you have records and receipts to prove that you've spent your money on the conservatee's behalf.

D. Borrowing from the Estate

You may not borrow the conservatee's money or loan it to anyone else without prior court approval.

E. Loaning Money to the Estate

You may loan money to the conservatorship estate and pay yourself back, but you need court approval to charge interest. Keep good records showing that you've loaned your own money to the estate.

AVOID THESE SERIOUS MISTAKES

- **Never mix your own investments and money with the conservatee's.** Even though it may seem convenient at the time to deposit a check made out to the conservatee into your own bank account, it could get you into

trouble. The conservatee's assets should be kept in accounts in your name as conservator of the estate, using the conservatee's social security number.

- **Do not manage the conservatorship estate so that you or your family or friends profit from it.** For example, if you were to sell the conservatee's car to your son for less than what it was worth without getting a judge's approval, you would be violating your duty as conservator of the estate. Similarly, you may not give your friends the conservatee's furniture or other possessions, nor may you move into the conservatee's home without paying fair rent.
- **Never borrow money from the estate.** You must not use estate funds or the estate's credit to get loans or credit for yourself, even if you will inherit the estate when the conservatee dies.
- **Do not give yourself or anyone else a gift from estate funds without getting a judge's approval first.**
- **Do not pay yourself or the conservator of the person fees from the estate without a judge's approval first.**
- **Do not pay fees with estate funds to your lawyer, to the lawyer for the conservator of the person, or to the lawyer for the conservatee, without getting a judge's approval first.**

6

DEVELOPING AND REVIEWING YOUR PLAN

Each conservator of the person and each conservator of the estate, whether general or limited, should make a plan for his or her conservatorship that assesses the needs, personal, financial, or both, of the conservatee and shows how these needs will be met on an ongoing basis.

Some superior courts require all conservators to prepare and file formal written plans with the court. Others may require some conservators to do so in their particular situations. If you are unsure about the court's requirements in your case concerning a plan for your conservatorship, check with your lawyer. **L** However, even if a formal plan is not required in your case, it is recommended that you develop at least an informal plan of conservatorship.

If the conservator of the person and the conservator of the estate in your conservatorship are different persons, the two of you should get together to develop your plan. The plan should be an overall or general plan in the sense that it provides a complete picture of the conservatee's personal needs and financial ability.

1. Developing Your Plan of Conservatorship

A plan of conservatorship, whether or not it is filed with the court, requires you to assess your conservatee's needs in a systematic way and then to develop a plan to meet those needs.

A. Assessing the Conservatee's Needs

By assessing the conservatee's needs, you will be able to figure out what services would be most helpful. Then you can look for people and organizations to provide these services and compare the expense of these services with the conservatee's financial ability. At that point, you can develop an overall plan for the conservatorship.

To assess personal needs, consider what the conservatee is able to do for himself or herself. The "Worksheet for Assessing the Conservatee's Needs" that follows can help you with this task.

In difficult situations, you may want to have a professional help you assess the conservatee's abilities. A private **case manager** or a nonprofit agency that provides **assessment** services in your area may be able to assist you. The social work department of a hospital in the conservatee's community or the local Area Agency on Aging may be able to refer you to agencies and individuals that provide these services. Regional centers provide assessment services for people with developmental disabilities.

In most situations, you should be able to conduct the personal needs assessment without professional help. Nevertheless, you can ask for help from the conservatee's doctors, nurses, social workers, neighbors, family members, friends, and community agencies in trying to figure out how well the conservatee can carry on daily living activities.

See Appendix B, "How to Find and Use Community Resources," at the back of this handbook, for more ideas and information about both services to assist with need assessment and services to meet the needs that you have identified.

B. Drawing Up a Plan to Meet the Conservatee's Needs

After assessing the conservatee's needs, you will need to prepare your plan for meeting these needs. The idea of a general or overall plan is simple. First, ***describe the conservatee's condition***, both personal and financial, and both how that condition is now and how it will be in the foreseeable future. Then ***describe the steps you plan to take to deal with the conservatee's condition*** during the period of time that you expect to be conservator.

(Continued on page 149)

WORKSHEET FOR ASSESSING THE CONSERVATEE'S NEEDS

| YES | NO | Can the conservatee care for himself or herself? |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee eat without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee safely get in and out of the bathtub or shower alone? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have any physical problems bathing or taking a shower? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee bathe or shower daily? If not, how frequently does he or she bathe or shower? _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee need help grooming, such as shampooing or combing hair? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee get dressed and undressed without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee get on and off the toilet without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have control over bladder and bowel functions? |

| YES | NO | How is the conservatee's physical and mental health? |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee been examined by a doctor within the last month? Date of last examination: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the conservatee currently under a doctor's care? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee take medicine, in the right doses at the right times, without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have trouble sleeping? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee lost his or her appetite? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee lost interest in pleasurable activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee expressed a wish to die? |

WORKSHEET FOR ASSESSING THE CONSERVATEE'S NEEDS

YES NO How is the conservatee's physical and mental health? (continued):

☐ ☐ Does the conservatee have strong beliefs that aren't realistic—for example, that someone is trying to harm him or her?

YES NO How is the conservatee's memory?

☐ ☐ Does the conservatee wander or get lost?

☐ ☐ Does the conservatee know the date and time of day?

☐ ☐ Is the conservatee sometimes confused about where or who he or she is?

☐ ☐ Does the conservatee sometimes fail to recognize people he or she knows well?

☐ ☐ Is the conservatee forgetful—for example, does he or she leave the oven on?

YES NO Can the conservatee manage his or her household?

☐ ☐ Is the conservatee able to fix his or her own meals?

☐ ☐ If so, is the conservatee willing to do so?

☐ ☐ Can the conservatee do the laundry?

YES NO Can the conservatee manage his or her finances?

☐ ☐ Can the conservatee balance a checkbook?

☐ ☐ Does the conservatee make reasonable, sensible decisions that are in his or her best interests—for example, does the conservatee give away valuables to strangers?

YES NO Can the conservatee get around by himself or herself?

☐ ☐ When walking, is the conservatee steady on his or her feet?

WORKSHEET FOR ASSESSING THE CONSERVATEE'S NEEDS

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee shop for groceries and other items? |
| <input type="checkbox"/> | <input type="checkbox"/> | If so, is transportation available? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee fallen? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee fall frequently? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee get out of bed and into a chair without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee need equipment to get around: |
| | <input type="checkbox"/> | <input type="checkbox"/> A cane? |
| | <input type="checkbox"/> | <input type="checkbox"/> A walker? |
| | <input type="checkbox"/> | <input type="checkbox"/> A wheelchair? |

| | | |
|------------|-----------|---|
| YES | NO | Does the conservatee have contact with other people? |
|------------|-----------|---|

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Do friends, neighbors, or relatives visit the conservatee frequently? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee expressed an interest in participating in group activities such as meals, games, and other events at a senior or other day center? |

| | | |
|------------|-----------|--|
| YES | NO | Is the conservatee in any danger? |
|------------|-----------|--|

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee's home have safety hazards such as broken steps, loose throw rugs, poor lighting, a staircase without rails, or bathrooms without grab bars? |
| <input type="checkbox"/> | <input type="checkbox"/> | If the conservatee drives, does he or she drive safely? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee ever become violent or threatening to himself or herself or to others? If so, how often and under what circumstances? (Attach additional pages if necessary.) |
| | | <hr/> |
| | | <hr/> |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have hallucinations? |

WORKSHEET FOR ASSESSING THE CONSERVATEE'S NEEDS

YES NO Is the conservatee in any danger? (continued):

☐ ☐ Is there evidence that anyone is threatening to steal from the conservatee or harm him or her in any way?

WORKSHEET SUMMARY

| Conservatee Can Do It Alone | Conservatee Needs Help | Activity |
|--------------------------------|---------------------------|--------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Moving around |
| <input type="checkbox"/> | <input type="checkbox"/> | Bathing |
| <input type="checkbox"/> | <input type="checkbox"/> | Dressing/grooming |
| <input type="checkbox"/> | <input type="checkbox"/> | Using toilet |
| <input type="checkbox"/> | <input type="checkbox"/> | Changing disposable underpants |
| <input type="checkbox"/> | <input type="checkbox"/> | Taking medications |
| <input type="checkbox"/> | <input type="checkbox"/> | Preparing meals |
| <input type="checkbox"/> | <input type="checkbox"/> | Shopping for groceries |
| <input type="checkbox"/> | <input type="checkbox"/> | Shopping for clothes |
| <input type="checkbox"/> | <input type="checkbox"/> | Cleaning the house |
| <input type="checkbox"/> | <input type="checkbox"/> | Doing laundry |
| <input type="checkbox"/> | <input type="checkbox"/> | Using the phone |
| <input type="checkbox"/> | <input type="checkbox"/> | Using transportation services |
| <input type="checkbox"/> | <input type="checkbox"/> | Paying bills/managing money |

Conservatee's memory

- ☐ Good
☐ Fair
☐ Poor

Conservatee's decision-making ability

- ☐ Good
☐ Threatens his or her own well-being

Is conservatee combative or
does he or she act aggressively?

- ☐ No
☐ Occasionally, but no
threat to safety
☐ Often
☐ May pose a threat to
self or others

Is conservatee confused or
disoriented?

- ☐ No
☐ Occasionally or mildly
☐ Always or severely

Your general plan for conservatorship should include the following elements:¹

- **Conservatee's personal condition and needs** Describe the conservatee's overall physical, emotional, and social circumstances. This description should identify needs—that is, physical, emotional, or social problems or deficits that affect the conservatee's daily activities. Include a description of the conservatee's current residence, level of care, and involvement with family and friends. Describe not only the conservatee's current state and daily routine, but also any expected changes—for example, a doctor's prognosis of anticipated improvement or decline in physical health.
- **Conservatee's financial condition and ability** Describe the conservatee's economic circumstances, including any existing investments and sources of income. Describe any existing procedures for handling income and expenses and identify any problem areas in maintaining and handling assets and deficits.
- **Plans for conservatorship of the person** Your plan for managing the conservatee's personal needs should be a detailed description of the type and level of services you propose to provide in order to take care of his or her basic and extraordinary needs. Include your own plans for contact and involvement with the conservatee and your plans to involve others, such as relatives, friends, or community services. Describe any changes you intend to make in the conservatee's existing residence or level of care, not only in the short term, based on current personal conditions, but also in the long term, based on expected changes in those conditions.
- **Plans for conservatorship of the estate** Your plan for managing the conservatee's estate should describe how you propose to handle the conservatee's assets and anticipated deficits, including proposed changes in investments and sales of assets and any intended use of investment advisors or other financial experts. Describe the method or procedure you intend to use to handle income and expenses and identify the income or sources of funds you intend to use to satisfy the conservatee's basic and extraordinary needs in the short term and in the long term. Estimate both income and expenses (including the cost of care and fees for lawyers and conservators) on an annual basis.

1. These elements are from local rules of the Superior Courts of Shasta and Ventura Counties.

2. Reviewing and Updating Your Plan

It is a good idea to review your plan at least once a year, or whenever there is a significant change in your conservatee's personal life or finances. Such changes may include the following:

- A gradual improvement or decline in physical, mental, or emotional health
- A sudden health change such as a stroke, hip fracture, or diagnosed cancer
- A change in the conservatee's family or household arrangements
- The death or absence of a spouse, child, good friend, or regular caregiver
- A new person or persons in the conservatee's life
- A reduction in estate assets or income
- The need to move from the conservatee's current residence

Periodic review is extremely useful to make any necessary adjustments to changes such as these, so that you may continue to meet the conservatee's current needs and circumstances.

Some courts require conservators of the person to file status reports at the time the conservator of the estate files the account. Status reports are filed with the court, but they are confidential. They are not kept with the documents the public can see in the court's regular file.

A status report is, essentially, an update of the plan developed by the conservator of the person. It describes the conservatee's current living arrangements, current health, general well-being, abilities and limitations; it notes any changes in these factors; and it indicates what changes in the conservatee's living arrangements are expected in the near future. You should check with your lawyer concerning your court's requirements for status reports. **L**

7

THE ROLE OF THE PROBATE COURT

Conservatorship cases are assigned to a specialized department of the superior court in each county, called the **probate** department or the **probate court**.

In larger counties the probate court may consist of one or more separate departments, or courtrooms, that handle only probate cases. These include **guardianships** and **decedents' estates** in addition to conservatorships. In smaller counties, the judge in the probate department also hears other kinds of cases.

The probate court has the legal authority to make decisions about the life and property of a conservatee. When a judge appointed you conservator, the court's authority to care for your conservatee was partly delegated to you, under the court's supervision.

The court does not grant this authority lightly, and it will review your actions as conservator. Before you take certain steps as conservator, such as selling the conservatee's home, you must get a judge's approval. It is important that you check with your lawyer to find out when you will need the probate court's approval. **L**

The court is also responsible for resolving disputes that may arise between the conservator and other interested persons, including the conservatee. In this role, the court operates more like it does in other areas of the law, as an impartial decision maker. If there is a dispute, the court's procedures for resolving it are similar to the procedures used in a regular civil lawsuit.

However, although the court is fair, in disputes between the conservator and the conservatee its primary responsibility is to protect the conservatee. It discharges that responsibility by closely supervising the conservator.

1. Court Personnel and Their Responsibilities

In each county, a judge or **commissioner** is assigned to handle probate cases. Each probate court has a **court investigator**. In small counties, the judge, assisted by a clerk, may hear probate cases one morning a week. In larger counties, the probate court operates on a full-time basis and includes a number of departments and judges, and the judges have more staff to help them. The staff may include experienced probate lawyers who work for the court or probate examiners. These persons examine papers **filed** and advise the judge and the parties filing the papers of any problems with them or with the notices of hearing given concerning them. They also keep track of parties' failures to file required papers in a timely manner and assist the court in compelling compliance with the court's rules and the laws applicable to probate matters.

A. Superior Court Clerk

The superior court clerk is usually just called the clerk, or the court clerk. The clerk's office is responsible for filing and storing all papers sent to the court by the parties to lawsuits and other matters heard in the court, and all orders made by the court's judges. In the larger counties, the clerk's office has a probate division responsible for maintaining the records of matters heard in the probate court.

The clerk keeps files that are records of each court case, including each conservatorship. All of the papers that are filed in a conservatorship are put in its case file, maintained under its file number. You must refer to that number and the case's name when you call or write the clerk's office. Any document you file must also contain the file number and the case name. The name of a conservatorship case (in which conservators of the person and estate have been appointed) is stated as "Conservatorship of the Person and Estate of [name of conservatee], Conservatee."

Each conservatorship case has both a public and a confidential file. The confidential file contains documents that have personal information about the conservatee, such as the court investigator's report. Your lawyer will advise you which documents must be filed in the confidential file. **L**

Throughout this handbook, you are advised to file various petitions, reports, and accounts with the court. This means presenting the papers to the clerk's office, where they will be placed in the conservatorship file. In most instances, your lawyer will do this for you. **L**

The clerk issues your Letters of Conservatorship and provides certified copies of them when you request and pay for them; see Chapter 1, Section 3(B). If you are a conservator of the estate, you must also file your **bond** with the court clerk's office; see Chapter 5, Section 1(B).

Court clerks are not permitted to give legal advice, to explain what papers are to be filed, or to answer questions about how to handle the conservatorship.

B. Court Investigator

Every superior court has at least one court investigator. The court investigator serves as the judge's "eyes and ears" in that the investigator is allowed to contact the conservatee or other interested people outside the courtroom. The court investigator is sometimes called the **probate investigator**.

A court investigator may have contacted you before you were appointed. In most cases, a court investigator must personally visit the proposed conservatee before the conservator is appointed. The investigator explains the conservatorship, answers questions, sees whether the proposed conservatee has any objections, and recommends whether a lawyer should be appointed to represent the proposed conservatee.

Court supervision One year after your appointment and every two years after that, the court reviews the conservatorship. This usually takes place at the time the court reviews your account and report (see Chapter 5, Section 8). At that time, a court investigator visits the conservatee and reminds the conservatee that he or she has a conservator and who the conservator is. The court investigator checks to see whether

- The conservatee wants the conservatorship to end.
- The conservatee should still be in a conservatorship.
- The conservator is acting in the conservatee's best interests.

A court investigator may contact you or anyone else to find out whether you are acting in the conservatee's best interests, so be prepared to cooperate. The court investigator will assess

- The conservatee's living situation, whether at home or in a care facility
- How much care and supervision the conservatee needs

- How well the conservatee's needs are being met
- What kinds of resources may be available to assist you

In most courts, a court investigator will review the conservator's account and report to see what level of care the conservatee can afford and whether the estate is being managed properly. The court investigator may question the conservator about transactions reported in his or her account and report.

Court investigator's report The court investigator gives the judge a confidential report of the investigation. Copies of the report must be mailed to you and your lawyer. If you have any questions about the report, ask your lawyer, or, if your lawyer recommends it, you may contact the court investigator directly. **L**

Other duties of the court investigator Although a court investigator's time is limited, he or she responds to complaints brought to the investigator's attention about how a conservatorship is being handled. The court investigator will contact the conservatee, the conservator, and others, if necessary, to check into a complaint.

In some instances, the court investigator may recommend that the judge appoint a lawyer for the conservatee. This may happen when the court investigator feels more investigation is needed, or if the conservatee wants the conservatorship to end or wants the conservator to be replaced.

The court investigator does not investigate crimes, but may refer them to the appropriate law enforcement agency.

If you are required to file a plan of conservatorship with the court (see Chapter 6), you must give the court investigator a copy. In some courts, the court investigator looks over legal papers filed with the court before a judge reads them, to make sure that they are complete. In most courts, however, that function is performed by other members of the court's probate staff. In the larger counties, the staff includes attorneys experienced in probate matters.

Cost of court investigations The cost of court investigations, called a court assessment, must be paid by the conservator from the conservatee's estate, unless the court waives the assessment because of hardship. If you believe the conservatee can't afford the assessment, have your lawyer ask the court to defer or waive payment. **L**

C. Probate Referee

At least one **probate referee** appointed by the State Controller serves each county. The court chooses a probate referee to appraise the value of noncash assets in a conservatorship (see Chapter 5, Section 6). You must give the probate referee an Inventory and Appraisal that includes all noncash assets of the conservatee. The referee figures out what the noncash assets were worth on the date you were appointed conservator. During the conservatorship, you may need to have the assets appraised by the referee again, most commonly when real estate is sold more than a year after your appointment.

2. Role of the Conservator's Lawyer

Your lawyer plays a key role by advising you over the course of the conservatorship. Your lawyer will help you prepare inventories, accounts, reports, and petitions; will file them with the court on your behalf; and will attend any required court hearings. Ask your lawyer to give you copies of all of the papers that he or she files on your behalf and all papers that he or she receives from other persons interested in the conservatorship. **L**

A close working relationship with your lawyer will make your job as conservator much easier. If you have any questions about your conservatorship responsibilities, check with your lawyer, not with court staff.

Chapter 1, Section 3(D), has more information about working with your lawyer.

3. Appointment of a Lawyer for the Conservatee

Conservatees have the right to be represented by a lawyer. For certain types of matters, the law requires that the court appoint a lawyer for the conservatee if the conservatee requests one, or if the court believes the appointment would be helpful or is necessary to protect the interests of the conservatee. In those cases, the judge will decide whether the conservatee can afford to pay the lawyer all or any portion of his or her fees and costs that have been approved by the court. If so, the lawyer's approved fees will be paid by the conservatorship estate, to the extent the court determines it has the ability to do so. Any portion of this lawyer's fees and costs the conservatee can't afford to pay are paid by the county.

The lawyer appointed by the court usually prepares and files a written report, including his or her recommendations for resolution of the matter before the court. Sometimes you may disagree with a position being taken by the conservatee's lawyer. If so, it may be possible to reach a compromise to settle the disagreement. If everyone involved can't agree to a compromise, a judge may have to decide what's best. Recommendations by court-appointed counsel for the conservatee are usually given great weight and consideration by the court.

8

CHANGING CONSERVATORS OR ENDING THE CONSERVATORSHIP

Your responsibilities as conservator end either when the conservatorship itself ends, or when your position as conservator ends. In either case, you must wind things up before a judge will release you from your conservatorship duties.

The conservatorship itself may end because the conservatee dies. It may also end because a judge decides it is no longer needed, either because the conservatee has regained the ability to handle his or her own affairs, or because the conservatorship estate has run out of money.

A conservator's position may end because

- The conservator resigned
- The conservator died
- The court removed the conservator from office

In these cases, the conservatorship continues, but under a new conservator.

See also Chapter 3, Section 5, for special rules for ending a **limited conservatorship**.

1. Ending a Conservatorship

A conservatorship ends when the conservatee dies. Also, a judge may end it if the conservatee becomes able to handle his or her own affairs, or if the estate runs out of money.

A. The Conservatee Becomes Able to Handle His or Her Own Affairs

Someone may have a conservator while he or she recovers from a physical or mental condition that is temporarily disabling. For example, the conservatee may have had a stroke or been in a serious auto accident and be unable to handle his or her personal affairs or finances. After rehabilitation, the conservatee may recover and be able to take care of things again.

Or someone with a developmental disability may improve to the point of becoming able to manage his or her affairs. For example, after several years of instruction in independent living and money management, a conservatee with mental retardation may no longer need someone else to manage his or her personal and financial affairs. A limited conservatorship that was set up to help meet these needs may no longer be necessary.

In these cases, the conservatee, the conservator, one of the conservatee's relatives or friends, or some other interested person may ask the court to end the conservatorship. The court may have the court investigator evaluate the conservatee's condition to see if the conservatorship should be ended. If the judge ends the conservatorship, you will be released from your duties once you have completed the final responsibilities required by the court. See Section 3 later in this chapter for more information.

B. The Conservatee Doesn't Have Any More Assets

Sometimes all of the conservatee's assets will be spent for his or her care. Without assets, there may no longer be a need for a conservatorship of the estate. The conservatorship of the person, however, will continue.

If the conservatee's only income is from public benefits, such as **SSI** or social security, it may be possible to end the conservatorship of the estate. Some public benefit laws allow a "named payee" to receive benefits on behalf of the person who is eligible to receive them. Since this "named payee" doesn't have to be appointed by a judge, a conservator of the estate may not be necessary any more.

If you believe that all of the conservatee's assets will be spent at some point, check with your lawyer to find out what should be done. **L**

C. The Conservatee Dies

A conservatorship ends when the conservatee dies. However, a judge will not release you from your duties and officially close the conservatorship until you have taken certain additional actions. Check with your lawyer to find out what is required. **L** Section 3 later in this chapter has more information about these final responsibilities.

2. Changing Conservators

In some cases, the conservator will be replaced and the conservatorship will continue. This may happen when the conservator resigns or dies. It may also happen if the judge removes the conservator by court order.

A. The Conservator Resigns

If you become ill or can't continue serving as conservator for some other reason, you may file a petition asking the court to accept your resignation. Your lawyer will help you make this request. **L** You can only ask for permission to resign. Unless the court accepts your resignation, you are still fully responsible as conservator.

If the court accepts your resignation, the judge may ask you to help find someone else to replace you as conservator. Sometimes the lawyer for the conservatee also helps find a suitable replacement. The replacement could be one of the conservatee's relatives, friends, or business acquaintances or a private professional conservator, a nonprofit agency, or a government agency called the **public guardian**.

The public guardian may be appointed as conservator if there is no suitable relative or friend who is willing to be appointed. Guidelines about which cases the public guardian will handle vary from county to county. In many counties, especially large ones, the public guardian has so many cases that it is hard for that office to give conservatees the attention and personal contact that a caring friend, relative, or private professional can provide.

If you believe the public guardian should be appointed to replace you as conservator, contact the public guardian office in your county. The court investigator can give you the phone number.

After you have resigned, the judge will **discharge** you from your duties once you have completed your final responsibilities. See Section 3 later in this chapter for more information.

B. The Court Removes the Conservator

The court may remove a conservator who isn't doing the job, or isn't capable of doing it, and then appoint a new conservator. The conservatee or any of his or her relatives or friends may ask the court to remove and replace the conservator. If the conservatee makes the request and doesn't have his or her own lawyer, a judge will appoint one to file a petition for the conservatee asking for **removal** of the conservator. **L**

If you are involuntarily removed, you are still responsible for handing things over to a new conservator. Section 3 later in this chapter explains your final responsibilities.

C. The Conservator Dies

If the conservator dies, a relative, friend, or executor of the deceased conservator should notify the court. A limited conservatorship itself ends when the conservator dies (see Chapter 3). In the case of a general conservatorship, however, the court appoints a new conservator as a replacement so that the conservatorship may continue as long as it is needed.

If the conservatee still needs help following the death of his or her conservator, a concerned friend, relative, or agency should file a petition asking the court to appoint a new conservator. If the conservatorship is no longer needed, the conservatee may ask the court to end it.

The person handling the deceased conservator's final affairs must complete the conservator's final duties before the judge will release the decedent's estate from responsibility as conservator. Section 3, which follows, has more information about these final duties.

3. The Conservator's Final Responsibilities

Whether you are a conservator of the person or conservator of the estate, you must wind things up before the judge will release you from your responsibilities.

If someone else is taking over, be sure to get all of your files and notes in order and pass them on to the new conservator.

If the conservatee dies, notify the court right away by sending a letter to the court investigator. Check with your lawyer to see if the court has any special requirements, such as filing the death certificate. **L**

If you are conservator of the estate, whether the conservatorship itself ends or you are being replaced by a new conservator, the court will not release your bond or discharge you from your duties until you do the following:

- Pay any court assessments due for investigation costs.
- Account for all of the conservatorship estate assets. If the conservatee has died, you will need to make two separate accountings: the first covering the period up to the date of the conservatee's death and the second covering the period after that date.
- Get the court's approval of your final accounting.
- Deliver the assets to and get a receipt from the appropriate person—for example, the new conservator or the executor of the conservatee's decedent estate.
- File the receipt with the court.

Once the court officially releases you, you are no longer responsible for managing the estate. If you are conservator of the estate, that release is called a discharge and follows court approval of your final accounting and distribution of all conservatorship assets to the restored conservatee, to the personal representative of the conservatee's decedent estate, or to the successor conservator of the conservatee's estate.

APPENDIX A

GUIDE TO MEDICARE, MEDI-CAL, AND OTHER HEALTH INSURANCE

1. Medicare

Medicare is a federal health insurance program that has no financial eligibility requirements. Medicare provides health insurance for

- People age 65 and older who are entitled to receive social security retirement benefits
- People under 65 who have been receiving social security disability benefits for at least 25 months
- People under 65 with severe kidney disease

Medicare also covers certain former federal, state, and local government employees and certain former railroad employees. You should contact a local Social Security Administration office to find out whether the conservatee is eligible for coverage.

There are two kinds of Medicare plans: Original Medicare, which is a fee-for-service plan, and Medicare + Choice plans, which include managed care (HMO) plans and fee-for-service plans.

Original Medicare is divided into two parts. Part A (hospital insurance) pays for inpatient hospital services, very limited skilled-nursing facility care following

hospitalization, some part-time home health services, and hospice care. Part B (medical insurance) covers doctor's services, some outpatient services, home health care, diagnostic tests, and medical equipment. Find out whether the conservatee is getting Part A, Part B, or both, by checking the conservatee's Medicare card or by asking the local Social Security Administration office.

CAUTION This section of Appendix A provides a brief and convenient summary of Original Medicare benefits. For more thorough coverage of the federal rules governing these benefits, as well as coverage that may include recent changes not reflected here, check with your local Social Security Administration office for the current booklet on Medicare benefits.

A. Original Medicare Part A: Inpatient Hospital Services

Original Medicare Part A covers inpatient hospital care, very limited skilled-nursing facility care, home health visits, and approved hospice care.

Hospital insurance Hospital benefits apply to a single benefit period that starts when the patient enters a hospital. A new benefit period starts if the patient goes into a hospital again 60 days after being released from a hospital, skilled-nursing facility, or rehabilitation facility.

The number of benefit periods a person can have is unlimited. However, within a benefit period, the maximum benefits are 150 days of inpatient hospital care and up to 60 *lifetime reserve* days that can be used only once.

In 2002, during the first 60 days of hospitalization in each benefit period, Medicare hospital insurance pays for all covered services after the patient has paid an \$812 deductible and has paid for the first three pints of blood used (or friends or family members have donated three pints of blood). For day 61 through day 90 of covered care in a benefit period, the patient must pay \$203 a day for all covered services, and Medicare pays the rest. For day 91 through day 150 of covered care in a benefit period, the patient's share of covered services increases to \$406 a day. After 150 days, the patient must pay the entire cost of the hospitalization.

The average hospital stay for a Medicare recipient is seven days. Therefore, it's highly unlikely that Medicare benefits will be exhausted in any given benefit period.

Nursing facility care Up to 100 days of skilled-nursing facility care are covered by Medicare. The patient must make a co-payment of \$101.50 a day after the first 20 days. Medicare covers care in a nursing facility only when the patient is there as a result of the same condition that he or she was hospitalized for. The person must enter the skilled-nursing facility within 30 days after a hospital stay of at least 3 days. If Medicare covers the stay, the average covered period is about two weeks. Medicare pays only for *skilled-nursing care* in a nursing facility. It doesn't pay for what it calls *custodial care*, such as feeding or help with bathing, walking, dressing, or using the toilet.

Home health care Home health care is covered under Part A when it is *medically necessary*, the person is homebound, and a doctor has ordered skilled care and rehabilitation. It can be covered under Part B if the beneficiary doesn't have Part A coverage. There are no deductibles or co-payments. However, a home health agency must make the request for coverage after it receives a doctor's order. The patient must pay 20 percent of the Medicare-approved cost of durable medical equipment used at home.

Hospice care Hospice care is provided if the doctor certifies that the person is terminally ill and is expected to live less than six months. There are no deductibles or co-payments for this care. However, there is a \$5.00 co-payment for outpatient prescription drugs and 5 percent of the Medicare-approved cost of respite care. Hospice care provides treatment to relieve pain and supportive services to maintain the patient at home, in a hospital, or in a hospice.

Paying the bill for Part A services Hospitals, skilled-nursing facilities, and home health agencies use insurance companies, such as Blue Shield of California, to send bills to Medicare. Different companies are used for different regions.

B. Original Medicare Part B: Medical Insurance

An individual may enroll in Part B of Original Medicare if he or she is

- Entitled to hospital insurance under Part A
- or—
- Meets Medicare's U.S. residency requirements

A person enrolls by applying in writing or by showing that he or she is entitled to social security benefits or Part A hospital insurance. Contact a local Social Security office to find out how to apply for the conservatee.

Find out whether the care the conservatee needs is covered by Medicare Part B. This insurance helps to pay for the following:

- Physician's services, including diagnostic and laboratory tests. Other services performed in a doctor's office are covered, such as x-rays, drugs that can't be self-administered, physical therapy, and speech pathology.
- Ambulance services.
- Prosthetic devices and artificial limbs.
- Medical equipment such as wheelchairs and hospital beds.
- Medical supplies, including surgical dressings and casts.
- Home health services that meet certain conditions and that are provided by an agency that participates in the Medicare program.
- Drugs needed during the first year after organ transplants, called immunosuppressive drugs.
- Outpatient services that are provided by hospitals that participate in the Medicare program.
- Other services, including some chiropractic and podiatric services.

Part B medical insurance doesn't cover nursing home care, prescription drugs, most eyeglasses, dental care, hearing aids, or routine examinations.

Paying the bill for Part B services Part B claims are processed by private insurance companies that administer Medicare claims.

In general, Original Medicare Part B pays 80 percent of the *reasonable charges* for all covered services, and 50 percent of the reasonable charges for outpatient mental health care, after the patient has paid a deductible each year (\$100 in 2002). People enrolled in Medicare Part B must pay monthly premiums. These premiums usually come out of the recipient's social security check. In 2002, the monthly premium is \$54.00 a month. The premium amount is expected to increase in January 2003.

Payments for Part B services can be made by two methods: assignment and direct payment.

- **Assignment** Check to see if the conservatee's doctors will accept Medicare assignment. This means that doctors or suppliers will bill Medicare for their services, and Medicare will pay the doctor directly. It also means that the doctor accepts Medicare's *allowable charge* as full payment. Medical providers who accept an assignment of medical benefits are not allowed to charge the patient any amount over the allowable charge. Medicare will pay 80 percent, and the patient will pay the remaining 20 percent. The patient must pay any deductible and pay for any treatments not covered by Medicare.
- **Direct payments** When a doctor doesn't accept assignment, the patient pays the doctor or provider directly, and the doctor bills Medicare. Medicare sends the benefit check to the patient, not the doctor. Medicare pays 80 percent of an allowable charge, and the patient is responsible for the remaining 20 percent as well as any amount the provider charges above what Medicare considers the allowable charge.

Every Social Security office and many senior service centers have a list of Medicare participating doctors and health providers who will take assignment. You may also call 1-800-952-8627 in Northern California or 1-800-848-7713 in Southern California to ask about a particular provider.

The Social Security Administration publishes the *Guide to Medicare Coverage*, which is updated annually as changes in the law occur. This is automatically mailed to persons who are enrolled in Medicare. However, if the conservatee's mailing address has changed, you should contact the Social Security Administration to make sure that you continue to receive it for the conservatee. You should obtain this guide and make sure you also receive each year's updated edition.

Because Medicare's regulations change annually, and because the *Guide to Medicare Coverage* is available, this handbook does not provide greater coverage details. However, it is suggested that you become familiar with the service areas of Original Medicare, described in the preceding sections.

Important There are limits to most Medicare coverage. Even though certain coverage areas are mentioned here, don't assume that the conservatee will automatically be eligible for coverage. Eligibility for certain coverage depends on the type of illness or injury, the number of days of hospital care, the patient's medical needs after discharge from the hospital, and other factors.

Each time you make arrangements for any of the services described here for the conservatee, you should confirm what portion of the cost is expected to be covered by Medicare.

It is likely that Medicare will cover only *part* of the total cost. The patient is responsible for medical costs not covered by Medicare. If the conservatee has supplemental medical insurance, this may cover an additional portion of the cost.

Right to appeal Any action taken by Medicare regarding Part A or Part B benefits can be appealed. If you feel that Medicare has made an incorrect decision about a claim, you can file an appeal by following the instructions on the back of the determination form sent by Medicare, or you can ask your local Social Security Administration office for help. There may be other resources in your area that provide assistance with Medicare appeals. Also, some lawyers specialize in this field. **L**

C. Medicare + Choice Plans

A recent innovation in Medicare coverage is the availability in many areas of Medicare + Choice plans, under which the government contracts with private medical service providers. Some of the plans are managed care (HMO) type plans; others are fee-for-service plans, like Original Medicare. A person must be eligible for and enrolled in Original Medicare Parts A and B to be eligible to enroll in a Medicare + Choice plan. An eligible person may switch from one plan to another or back to Original Medicare, but there are restrictions, so if you are investigating a Medicare + Choice plan for your conservatee, you should be careful.

The details of Medicare + Choice plans are beyond the scope of this handbook. However, if you want to look into one of them for your conservatee, you can visit the Medicare Web site at www.medicare.gov and select “Medical Personal Plan Finder,” or you can call 1-800-MEDICARE (1-800-633-4227) for more information. The government publication, *Medicare and You 2002*, has information on this subject, including comparison charts between the various kinds of plans available.

2. Medi-Cal

Medi-Cal is California’s version of a combined federal and state program designed to help pay for medical care for people getting public assistance and other low-income people. It is referred to in federal law and in other states as Medicaid.

Although Medi-Cal recipients often also receive Medicare, these programs aren't related. Medicare is run by the Social Security Administration. Medi-Cal is administered by the State of California. Funding for Medi-Cal comes from federal Medicaid funds.

Eligibility There are several categories of individuals eligible to receive Medi-Cal:

- **Supplemental Security Income (SSI) recipients** Low-income people who are 65 or over, and blind or disabled people of any age who are receiving SSI aid payments, are automatically covered by Medi-Cal. It is important to apply for SSI whenever you can, even if the conservatee is eligible only for a small cash benefit, because Medi-Cal coverage comes with SSI.
- **Temporary Aid for Needy Families (TANF, formerly Aid to Families with Dependent Children, or AFDC)** People who are receiving benefits under the TANF program are automatically eligible for Medi-Cal.
- **Medically Needy (MN)** People who are 65 or over, or blind or disabled, and who aren't getting SSI may be eligible for Medi-Cal if they have very limited financial resources. If paying medical bills would leave the person with less money than Medi-Cal considers enough to live on, the patient has to pay part of the bills, and Medi-Cal will pay part.
- **Nursing home residents** People in nursing homes are eligible if their income and financial resources are within Medi-Cal limits.

Transferring assets to be eligible for Medi-Cal Under certain circumstances, assets can be spent down or transferred to others until they are down to the Medi-Cal eligibility limit. The conservatee may then become eligible for Medi-Cal.

This is an extremely complex and rapidly changing area of Medi-Cal regulations. You should not transfer assets until you have consulted with your lawyer. **L**

Expenses covered by Medi-Cal Medi-Cal pays for health care services that Medi-Cal considers to be medically necessary.

Some of these services must be authorized by Medi-Cal in advance. If so, the health care provider makes the request. The patient has the right to receive a copy of Medi-Cal's form denying coverage. Prior approval is not required for emergency care, necessary doctor's visits, or most drugs. You have the right to request a hearing if you believe that the authorization is unreasonably delayed or if it is denied.

Sometimes the patient may have to make a co-payment for prescription drugs or for nonemergency treatment that was given in an emergency room.

Claims on a deceased conservatee's estate The state has the right to place a claim on the estate of a deceased Medi-Cal recipient for Medi-Cal services received after the age of 55 and for long-term care received at any age. The state must waive the claim if payment of the claim would cause the decedent's dependents, heirs, or survivors substantial hardship.

Medi-Cal providers It is important to find out before treatment whether the conservatee's doctors and other health care providers accept Medi-Cal. Not all hospitals, nursing homes, and other health care providers accept Medi-Cal. However, *if Medi-Cal is accepted, the provider must accept the Medi-Cal reimbursement as payment in full.*

Nursing home care For nursing home care to be covered by Medi-Cal, the patient must have been admitted on a doctor's order, and the stay must be considered by Medi-Cal to be medically necessary. Medi-Cal recipients in nursing homes may keep a personal-needs allowance, and the rest of their income is paid to the nursing home.

A person in a nursing home who is on Medi-Cal and who owns a home continues to be eligible so long as

- He or she intends to return home, and
- The person's spouse or dependents are living in the home, or
- Certain other persons with relationships to the person are residing in the home, and the circumstances meet Medi-Cal's exemption guidelines.

Anyone, no matter how ill, can intend to return home. The patient's intent to return home should be stated on the application for long-term Medi-Cal care.

Special rules for couples when one spouse enters a nursing home When one spouse goes into a nursing home, the other spouse doesn't have to use up all of the couple's income and assets before Medi-Cal will help pay for nursing home care. Medi-Cal regulations about such situations can be complicated. Also, they may change periodically. You should consult your lawyer and the local Medi-Cal office for current Medi-Cal regulations and information. **L**

Medi-Cal and Medicare For people on Medicare, Medi-Cal pays

- The deductible for medical benefits under Part A
- Part B premiums
- The yearly deductible and co-payments for medical benefits under Part B

If a person receives both Medi-Cal and Medicare, a doctor may not bill the patient directly and may not make the patient pay the 20 percent co-payment that Medicare patients pay.

How to apply for Medi-Cal It is important to plan ahead so that you know in which month the conservatee will be eligible for Medi-Cal. Consult your lawyer and contact the Medi-Cal office as soon as you believe that this time is approaching, because it takes time to process the application. Once the conservatee's income and assets have been checked and Medi-Cal is approved, the conservatee will be given a Medi-Cal card.

You may request up to three months of retroactive coverage, and, if approved, the conservatee will be covered for these months.

Right to appeal A person getting Medi-Cal has the right to appeal any decision by the welfare department regarding Medi-Cal eligibility. If you do not have a lawyer, contact your local legal aid office for assistance with Medi-Cal eligibility and service problems.

3. County Health Services

People between the ages of 21 and 65 who aren't blind or disabled and who have no dependent children are not eligible for Medi-Cal (except pregnant women, nursing home residents, and refugees). The county is responsible for providing medical care to people who are sick and unable to pay for medical treatment. Even in these cases, the county may send a bill or request a partial payment for the services. Contact the county health department to find out about services in your county.

4. Medicare Supplemental Health Insurance (Medigap)

Medigap is a type of private insurance, not the name of an insurance company or a government program. Medigap insurance is designed to pay the co-payments and deductibles required by Medicare. Generally, this type of insurance is available to people 65 and over who have both Medicare Parts A and B. When you evaluate Medigap policies, you should understand that they will not cover all of the conservatee's health care expenses that Medicare doesn't pay.

Medigap policies use the language of the Medicare program and base their coverage decisions on Medicare determinations. Therefore, if Medicare won't cover a treatment, it's likely that a Medigap policy won't cover it either. Medigap policies don't pay for custodial nursing home care.

Look at Medigap policies carefully Before buying a Medigap policy, review the policy's outline of coverage. You don't have to buy a policy to get an outline of coverage, but you probably won't be able to see the policy itself before you buy it. However, you are legally entitled to a 30-day free review period. If you decide to cancel the policy within the first 30 days, the insurance company must refund all premiums.

When you are thinking of buying Medigap insurance for the conservatee, follow these guidelines:

- Don't buy more than one Medigap policy.
- Consider a Medicare + Choice plan instead of a Medigap policy.
- See if there's a waiting period before the policy pays for medical conditions that the insured already had before signing up for the policy.
- Take your time. Don't let yourself be pressured into buying. Don't be taken in by misleading advertisements or an insurance agent's misleading statements.
- Know with whom you are dealing. Keep the name and address of the agent or the insurance company.
- Don't pay cash. Make your check or money order payable to the insurance company, not the agent.

- Contact the insurance company if you don't receive the policy or any refund promptly.
- Remember that people who are eligible for Medi-Cal don't need Medigap policies.

5. Long-Term Care Insurance

Long-term care insurance is not the same as Medigap insurance. It is a type of insurance that is designed to pay for skilled, intermediate, or custodial nursing home care. It also may offer some home health care benefits.

Most long-term care policies pay a fixed amount for each covered day. Normally, benefits are not designed to increase with inflation, but some policies do give increases.

After hospitalization, many people need custodial care, in a facility or at home. Since this care isn't covered by Medicare, to be of any real value a long-term care policy should cover custodial care. Read the policy carefully to make sure that it will cover custodial care, even when Medicare does not. It is a good idea to ask your lawyer to review the policy as well. **L**

Currently, Medicare and all private insurance payments combined pay only a small percentage of nursing home bills. Medi-Cal and patients themselves pick up most of the costs of nursing home care. Therefore, it is important to evaluate this type of insurance carefully to decide whether the benefits justify the premium.

6. Other Types of Insurance

There are many types of medical insurance in addition to those discussed previously. The following are examples of insurance policies or plans you may encounter.

A. Dread Disease Policies

Dread disease policies are designed to cover the costs of a lengthy hospital stay for a particular disease, usually cancer. These types of policies typically have exclusions, waiting periods, time limits, and a cap on benefits. People often have trouble collecting on these policies. Very few dread disease policies cover

nursing home stays or cancer-related illness. They are outlawed in many states, and many consumer groups consider them to be bad buys.

B. Indemnity Policies

Indemnity policies usually pay a specific amount of money for each day the insured is hospitalized. In most cases, the amount is a very small portion of the actual cost. These policies don't pay benefits for illnesses outside a hospital, and the benefits don't go up with inflation.

C. Group Health Insurance

Many people who would otherwise lose their group health insurance coverage because of unemployment, divorce, or the death or retirement of a spouse are able to keep their insurance an additional period of time by paying their own premiums.

If the conservatee has experienced one of the changes mentioned in the preceding paragraph, you should consult your lawyer, as well as the office that administers the group health insurance, to determine whether the conservatee may be able to continue receiving benefits. You and your lawyer will need to review the group policy and the conservatee's particular circumstances very carefully.

D. Health Maintenance Organizations (HMOs)

An HMO is a type of prepaid health care plan that provides specific services to its enrolled members. HMOs have doctors and health care facilities that provide all benefits covered by Medicare.

Usually, HMOs have a special contract with Medicare. Medicare pays the HMO a set amount each month for each Medicare member, and the member pays little or nothing for HMO services. Members of an HMO agree to put away their Medicare card and use only HMO doctors and facilities for all medical care unless it is an emergency. When the patient uses doctors and facilities outside the HMO for nonemergency care, the patient is responsible for the bill, not Medicare and not the HMO.

7. Sources of Assistance

The Health Insurance Counseling and Advocacy Program (HICAP) of the California Department of Aging offers elderly people free advice on health care insurance. See Appendix B, “How to Find and Use Community Resources,” for information about contacting HICAP.

To complain about an insurance company, contact the California Department of Insurance, Policy Services Bureau, 300 South Spring Street, South Tower, Los Angeles, CA 90013. If you have a problem with Blue Shield or a prepaid health plan, contact the Department of Managed Health Care, California HMO Help Center, 980 Ninth Street, Suite 500, Sacramento, CA 95814.

APPENDIX B

HOW TO FIND AND USE COMMUNITY RESOURCES

As conservator, you shoulder a great deal of responsibility. There are important decisions to be made on behalf of another human being: the conservatee. But you are not alone: a number of public and private resources can help you with many aspects of your duties. There are organizations that will deliver meals to a conservatee's home; others will help you evaluate health insurance policies for an elderly conservatee; private case managers can help you assess the conservatee's needs; and some nonprofit organizations will arrange job training for a conservatee with a developmental disability.

The trick is finding the service you need. It would be wonderful if we could hand you a list of phone numbers to call in your community or a list of organizations that exist in every town. But we can't. Resources change—new organizations form, others lose government funding, phone numbers change. An agency that exists in 10 California communities may not exist in 20 others.

A video is also available You may arrange with the court or your lawyer to see *With Heart: Understanding Conservatorship*, a videotape that includes information on the matters covered in this appendix. See page vi at the front of this handbook.

Ask for the local court supplement Most superior courts have a local supplement to this handbook. These may have additional information about local court requirements. Many of them also have important information about local community resources that may be available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure that you have all of the local materials you need.

To find help, you need to know what resources may exist in your community. For instance, some or all of the following may be available:

- Adult day health care programs
- Adult social day-care programs
- Case management services
- Counseling
- Courses at schools and colleges
- Day programs for people with developmental disabilities
- Emergency response devices
- Homemaker, home health, and personal-care services
- Legal assistance
- Meal services
- Personal contact programs
- Respite care
- Senior centers
- Transportation services
- Work training programs

See Chapter 4, Section 7, for more information about these services and programs.

Sources of referrals To find these services, you need to know the types of organizations and individuals that can guide you to them. Key sources of referrals include

- The court investigator for your conservatorship case
- The social work department of your local hospital
- A regional center for people with developmental disabilities
- The referral and information phone line for your Area Agency on Aging
- Your local library's reference section

Start by asking these organizations and individuals for the names and phone numbers of local resources. Then follow through by calling the suggested resources to find out if and how they can help. One phone call will lead to another until eventually you should be able to locate the service you need.

1. Brain-Impaired Adults

Family Caregiver Alliance

The Family Caregiver Alliance assists relatives of people who have suffered a brain-impairing illness or injury after age 18. Brain impairment may be the result of AIDS, a stroke, an auto accident, or some other disease or injury.

This project offers a wealth of help to family members who take care of brain-impaired adults in California. The Family Caregiver Alliance organizes support groups, runs workshops and seminars, makes referrals to legal and financial consultants, helps find in-home aides, and more. It runs a small respite care program that may be able to provide someone to temporarily care for the impaired family member.

Most services are free or on a sliding scale based on income. The phone number is (800) 445-8106.

2. Care Facility Licensing and Complaints

There are three California government agencies charged with licensing and regulating care facilities.

A. Board-and-Care Homes

California Department of Social Services Community Care Licensing Division

Board-and-care homes and other residential care facilities are licensed by the California Department of Social Services, Community Care Licensing Division. Before you choose a board-and-care home for the conservatee, check with a district office of this agency to see if the home is licensed. You may want to look through the licensing reports on a particular facility to see if it has been cited for licensing violations.

You can also make complaints about a residential care facility to the Community Care Licensing Division. If you believe that the facility is overcrowded, that residents aren't being served enough food, that they are being mistreated or their personal rights are being violated, or that the facility is unsafe, you should report these problems to a district office of this agency.

Call the Community Care Licensing Division in Sacramento at (916) 229-4500 to get the phone number and address of the division's district office nearest you.

B. Life-Care Facilities

California Department of Social Services Continuing Care Contracts Program

The Department of Social Services, Continuing Care Contracts Program, certifies life-care (continuing-care) facilities. Before you enter into a contract for life care for the conservatee, check with this office to find out if the facility is certified. This agency also can give you information about the facility's financial reports. Since a contract with a continuing-care facility is for care in the future, the facility must be financially sound to be able to fulfill its promise of future care.

Call the Continuing Care Contracts Program in Sacramento at (916) 657-2592 to check on a continuing-care facility.

C. Nursing Homes

California Department of Health Services Licensing and Certification Division

Intermediate-care and skilled-nursing facilities are licensed by the California Department of Health Services, Licensing and Certification Division. This agency also oversees acute-care hospitals, chemical dependency recovery facilities, dialysis clinics, home health agencies, and many other health care facilities.

District offices of this agency can tell you whether a facility is licensed, and you can ask to see licensing reports that have been filed on a particular facility. If the facility has been cited for licensing violations, it will be mentioned in the licensing report. You can also make complaints about these facilities to this agency.

Call the Licensing and Certification Division in Sacramento at (916) 445-2070 to find out the phone number for the district office nearest you.

D. Long-Term Care Ombudsman Program

The Long-Term Care Ombudsman Program is designed to protect residents of board-and-care homes, nursing homes, and other long-term residential care facilities. In 33 regions throughout the state, local ombudsmen advocate for the rights of long-term care facility residents, and they respond to and investigate complaints of abuse of residents. The ombudsman programs serve all residents of long-term care facilities, not just elderly residents.

Call the Office of the State Long-Term Care Ombudsman at (800) 231-4024 to get the phone number of your local ombudsman program.

3. Conservatorship Case Management

Conservatorship case managers offer a wide range of services.

- They help assess the conservatee's needs and develop a plan for meeting those needs.
- They arrange services for the conservatee.
- They help you develop your Plan of Conservatorship.

- They coordinate the services of the various agencies and individuals helping the conservatee.
- They keep track of the conservatee's status to see if changes are needed in the conservatee's care.
- They can serve as conservators.

There are private case managers, as well as nonprofit agencies that provide case management services. The Area Agency on Aging may be able to refer you to a case manager, a regional center can refer you to a case manager for a limited conservatee, or you can ask the social work department of a local hospital for a recommendation. Another way to find a case manager is by asking friends, business associates, or family members for a recommendation.

4. Developmentally Disabled Conservatees

Regional Centers and California Department of Developmental Services

Regional centers are nonprofit corporations that have contracts with the California Department of Developmental Services to serve people with developmental disabilities. Regional centers provide some services directly, and they must help you arrange for other services needed by a developmentally disabled conservatee. Services that the regional center must arrange or provide include

- Diagnosis, evaluation, and treatment
- Personal care, day care, and special living arrangements
- Physical and occupational therapy
- Job training and education
- Information about employment opportunities in sheltered settings
- Services to help people with developmental disabilities work in the general community
- Mental health services
- Recreation

- Individual and family counseling
- Protective services
- Information and referral services
- Transportation to and from services
- Respite care
- Advocacy to help people with developmental disabilities get and keep government benefits

If you are conservator for a person with a developmental disability, call the regional center for your community.

| REGIONAL CENTER | COUNTIES SERVED | PHONE |
|--|---|----------------|
| Alta California Regional Center | Alpine, Colusa, El Dorado, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba | (916) 978-6400 |
| Central Valley Regional Center | Fresno, Kings, Madera, Mariposa, Merced, Tulare | (559) 276-4300 |
| Eastern Los Angeles Regional Center | Los Angeles: Alhambra, East Los Angeles, Northeast, Whittier | (626) 299-4700 |
| Far Northern Regional Center | Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, Trinity | (530) 222-4791 |
| Frank D. Lanterman Regional Center | Los Angeles: Central, Glendale, Hollywood-Wilshire, Pasadena | (213) 222-4791 |
| Golden Gate Regional Center | Marin, San Francisco, San Mateo | (415) 546-9222 |
| Harbor Regional Center | Los Angeles: Bellflower, Harbor, Long Beach, Torrance | (310) 540-1711 |
| Inland Regional Center | Riverside, San Bernardino | (919) 890-3000 |
| Kern Regional Center | Kern, Inyo, Mono | (661) 327-8531 |
| North Bay Regional Center | Napa, Solano, Sonoma | (707) 256-1100 |
| North Los Angeles County Regional Center | Los Angeles: East Valley, San Fernando, West Valley | (818) 778-1900 |
| Redwood Coast Regional Center | Del Norte, Humboldt, Mendocino, Lake | (707) 445-0893 |
| Regional Center of Orange County | Orange | (714) 685-5555 |
| Regional Center of the East Bay | Alameda, Contra Costa | (510) 383-1200 |
| San Andreas Regional Center | Monterey, San Benito, Santa Clara, Santa Cruz | (408) 374-9960 |
| San Diego Regional Center | Imperial, San Diego | (858) 576-2996 |

| | | |
|---|--|----------------|
| San Gabriel/Pomona Regional Center | Los Angeles: El Monte, Glendora, Monrovia, Pomona | (919) 620-7722 |
| South Central Los Angeles Regional Center | Los Angeles: Compton, San Antonio, South, Southeast, Southwest | (213) 763-7800 |
| Tri-Counties Regional Center | San Luis Obispo, Santa Barbara, Ventura | (805) 962-7881 |
| Valley Mountain Regional Center | Amador, Calaveras, San Joaquin, Stanislaus, Tuolumne | (209) 473-0951 |
| Westside Regional Center | Los Angeles: Inglewood, Santa Monica-West | (310) 258-4000 |

5. Elderly Conservatees

The following agencies will help you, or will refer you to others who will help you, care for an elderly person.

A. Area Agencies on Aging (AAAs)

Area Agencies on Aging (AAAs) serve Californians who are 60 or older. Each of the 33 AAAs sponsors an information and referral phone service that guides callers to existing resources. Your local AAA is an excellent place to start your search for community resources.

AAAs can refer you to a wide variety of programs: home-delivered meals, dining rooms that serve meals, transportation services, health screening programs, adult day health care programs, adult day-care centers, senior centers, Alzheimer's centers, legal assistance, patient advocates, in-home aides, and more. These resources vary widely from one community to another.

To find the phone number of your local AAA, look in the Yellow Pages under Senior Citizens, or call the Department of Aging in Sacramento at (916) 322-3887.

B. Health Insurance Counseling and Advocacy Program (HICAP)

Health Insurance Counseling and Advocacy Programs (HICAPs) offer counseling on health insurance for elderly people. HICAP volunteers explain Medicare and Medi-Cal, and they will help you compare private health insurance plans. HICAP also offers help filling out health insurance claim forms and resolving disputes over health insurance claims and coverage.

To reach your local HICAP, call (800) 434-0222.

C. Long-Term Care Ombudsman Program

See Section 2(D) earlier in this appendix.

6. Health Care

The following agencies, organizations, and other resources will help you with health care questions.

A. Health Care Facility Licensing

The Licensing and Certification Division of the California Department of Health Services certifies home health services, dialysis clinics, acute care hospitals, and many other health care facilities as well as nursing homes.

See Section 2 earlier in this appendix for more information.

B. Health Insurance Counseling and Advocacy Program (HICAP)

See Section 5(B) earlier in this appendix for more information about this California Department of Aging program. It offers health insurance counseling to elderly Californians.

C. Health Information Organizations

Chapter 4, Section 3(A), contains a list of health information organizations. Many of these groups have toll-free phone lines that provide information about a particular disease such as Alzheimer's or cancer. These organizations may be able to send you literature about the disease, help you find a local support group, and direct you to appropriate services and resources.

D. Medicare

Toll-free phone lines provide information about Original Medicare Part B claims; see Appendix A, "Guide to Medicare, Medi-Cal, and Other Health Insurance," and Section 1(B) earlier in this appendix. You can call these numbers to check on a particular Original Medicare Part B claim, to find out which services are covered by Part B, and to get the names of health care providers who accept Medicare benefits as full payment for their services.

From southern California, call (800) 848-7713. From northern California, call (800) 675-2266.

7. Legal Assistance

When you need a lawyer, check with friends, business associates, your tax advisor, or family members for recommendations. Finding a lawyer through a satisfied client is an excellent way to get legal help. Try to find a lawyer experienced in handling conservatorships. One way to do that is to ask the lawyer whether he or she accepts court appointments to represent conservatees. Courts in the larger counties have probate volunteer panels of lawyers for this purpose. Ask the lawyer if he or she is a member of the panel in your county. That is excellent conservatorship experience. Many lawyers who regularly practice in the probate court handling decedent's estates do not necessarily have experience in conservatorship matters.

You can also use a lawyer referral service that has been certified by the State Bar of California. These services will refer you to a lawyer who specializes in a particular area of law. In most instances, there will be a small fee for a half-hour consultation with the lawyer. If you decide to hire the lawyer beyond that consultation, you will be charged the lawyer's normal fees for additional work, subject to the court's supervision and prior approval if the fee is going to be paid from the conservatorship estate.

Look in the Yellow Pages under Attorney Referral Services. Call only services that advertise that they are certified by the State Bar. When you call, let the service know what kind of legal assistance you need—for example, help with a conservatorship, a real estate matter, or a contract.

For people with extremely low incomes, there are free legal services programs throughout the state. Look in the white pages of your phone directory under Legal Aid. Free legal services programs will often handle only certain types of legal problems.

Elderly Californians are served by a statewide program of free legal information and advice programs. The local Area Agency on Aging or a senior center can refer you to the closest senior legal assistance program.

8. Social Security

Call the toll-free Social Security office phone line to check on the conservatee's eligibility for retirement, SSI, disability, or Medicare benefits. You may also want to contact the Social Security Administration to have the conservatee's benefit checks deposited directly into the conservatorship account, or to have benefit checks made out to the conservator. Social Security office staff will answer questions and send you forms and literature.

The toll-free Social Security Administration phone number is (800) 772-1213.

APPENDIX C


SAMPLE

INVENTORY AND APPRAISAL

A conservator of the estate prepares the Inventory and Appraisal described in Chapter 5, Section 6. This document lists all of the assets owned by the conservatee on the date that the conservator of the estate was appointed. It also states the value of each asset and the total value of all assets on that date.

The sample Inventory and Appraisal in this handbook has three pages:

1. A cover page
2. Attachment 1: Cash Assets
3. Attachment 2: Noncash Assets

The conservator must make a detailed list of all of the conservatee's assets as of the date of the conservator's appointment. The assets must be divided into two categories: cash assets and noncash assets. Cash assets include accounts in financial institutions such as banks, savings and loan associations, and credit unions; certificates of deposit; money-market funds; cash deposits in brokerage accounts; uncashed checks, drafts, or money orders dated before the date of your appointment payable to the conservatee; refund checks dated after the date of your appointment for taxes, utilities, Medicare, medical insurance and other health care reimbursements and payments; and currency. Noncash assets are everything else, including real estate, home furnishings, stocks and bonds, automobiles, jewelry, and artworks. If you have any questions concerning the proper appraisal category of any asset, ask your lawyer or check with the probate referee mentioned later in this appendix. 

As conservator of the estate, you must list the cash assets in Attachment 1 and the noncash assets in Attachment 2. Then fill in the value of each cash asset in Attachment 1 as of the date of your appointment (the date of the court's order appointing you conservator, not the date that your Letters were issued) and the total value of the Attachment 1 assets on line 1 under "Appraisals" on the cover page. If there are noncash assets, you must send the partially completed Inventory and Appraisal to the probate referee assigned by the court when you were appointed so the referee can appraise those assets. If there are no noncash assets, the probate referee will not be involved.

Once the probate referee has finished his or her appraisal, he or she will return the original Inventory and Appraisal to you or to your lawyer, with the values of the noncash assets added in Attachment 2, and with the Declaration of Probate Referee on page 2 (the reverse side) of the cover page completed and signed. You or your lawyer must fill in the total of Attachment 2 on the cover page (and the total of Attachment 1 if you didn't do that before) and complete the rest of that page, and both of you must sign it. You then file the completed Inventory and Appraisal with the court and pay the probate referee's commission and expense bill shown in his or her declaration. This is a proper expense of administration payable from the conservatee's funds.

The deadline for filing the Inventory and Appraisal is 90 days after your appointment, so start work on this right away. Locating the conservatee's assets is the first step (see Chapter 5, Section 4). The second step is to list the assets on Attachments 1 and 2. The third step is to send the Inventory and Appraisal cover page and the attachments to the probate referee.

You need to allow time for the probate referee to complete the appraisal of the noncash assets in Attachment 2 and to return the completed appraisal, signed by him or her, to you or to your lawyer. Allow four to six weeks for this step.

Remember to list and describe assets on Attachment 1 or 2 that the conservatee owned ***on the date of your appointment***. However, do ***not*** list

- Money spent or received after the date of your appointment
- The conservatee's wages (if the conservatee is working, wages must be paid directly to the conservatee as if the conservatorship did not exist)
- Property the conservatee owns outside of California

The sample Inventory and Appraisal follows, showing Attachment 1 assets appraised by the conservator, and Attachment 2 assets listed but not yet appraised. This is the way the Inventory and Appraisal looks when it is sent to the probate referee for his or her appraisal of the Attachment 2 assets.

| | | | |
|--|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Jared Roberts, State Bar #123456 Attorney at Law 16201 Financial Center Drive Santa Ana, CA 92705 ATTORNEY FOR (Name): David Lowry, Conservator | | TELEPHONE AND FAX NOS.: (714) 555-3476 Fax (714) 555-3477 | FOR COURT USE ONLY <div style="border: 1px solid black; padding: 5px; margin: 5px;"> Probate referee completes. </div> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> After probate referee's figure is put in, add items 1 and 2, and write total here. Note: You will need this figure to start your Account to the court. See Appendix D. </div> |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 341 The City Drive MAILING ADDRESS: 341 The City Drive CITY AND ZIP CODE: Orange, CA 92868-3209 BRANCH NAME: Lamoreaux Justice Center | | ESTATE OF (Name): Jeanne Lowry <input type="checkbox"/> DECEDENT <input checked="" type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR | |
| INVENTORY AND APPRAISAL <input type="checkbox"/> Partial No.: <input type="checkbox"/> Corrected <input checked="" type="checkbox"/> Final <input type="checkbox"/> Reappraisal for Sale <input type="checkbox"/> Supplemental <input type="checkbox"/> Property Tax Certificate | | CASE NUMBER: A-396254 Date of Death of Decedent or of Appointment of Guardian or Conservator: March 8, 2000 | |
| APPRAISALS 1. Total appraisal by representative, guardian, or conservator (Attachment 1): 2. Total appraisal by referee (Attachment 2): | | \$ 56,794.59 <div style="text-align: right;"> TOTAL: \$ </div> | |

DECLARATION OF REPRESENTATIVE, GUARDIAN, CONSERVATOR, OR SMALL ESTATE CLAIMANT

3. Attachments 1 and 2 together with all prior inventories filed contain a true statement of
☒ all ☐ a portion of the estate that has come to my knowledge or possession, including particularly all money and all just claims the estate has against me. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 1.
4. ☐ No probate referee is required ☐ by order of the court dated (specify):
5. **Property tax certificate.** I certify that the requirements of Revenue and Taxation Code section 480
- ☐ are not applicable because the decedent owned no real property in California at the time of death.
 - ☐ have been satisfied by the filing of a change of ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of death.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

David Lowry

(TYPE OR PRINT NAME; INCLUDE TITLE IF CORPORATE OFFICER)

Conservator signs after probate referee returns this form.

(SIGNATURE)

STATEMENT ABOUT THE BOND

(Complete if required by local court rule)

6. ☐ Bond is waived, or the sole fiduciary is a corporate fiduciary or an exempt government agency.
7. ☐ Bond filed in the amount of: \$ ☐ Sufficient ☐ Insufficient
8. ☐ Receipts for: \$ have been filed with the court for deposits in a blocked account at (specify institution and location):

Date:

Jared Roberts

(TYPE OR PRINT NAME)

Conservator's lawyer completes and signs this section.

(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

(Continued on reverse)

| | |
|--|---|
| ESTATE OF (Name): Jeanne Lowry | CASE NUMBER: <div style="text-align: right; font-weight: bold;">A-396254</div> |
| <div style="display: flex; justify-content: space-around; align-items: center;"> <input type="checkbox"/> DECEDENT <input checked="" type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | |

DECLARATION OF PROBATE REFEREE

9. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 2.
10. A true account of my commission and expenses actually and necessarily incurred pursuant to my appointment is

Statutory commission: \$

Expenses (*specify*): \$

TOTAL: \$

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

| | |
|--|--|
| (TYPE OR PRINT NAME) | <div style="border: 1px solid black; padding: 5px; display: inline-block; background-color: #f0f0f0;"> <i>Probate referee completes and signs this section.</i> </div> <div style="border-top: 1px solid black; margin-top: 5px;"> (SIGNATURE OF REFEREE) </div> |
|--|--|

INSTRUCTIONS

(See Probate Code sections 2610-2616, 8801, 8804, 8852, 8905, 8960, 8961, and 8963 for additional instructions.)

1. See Probate Code section 8850 for items to be included in the inventory.
2. If the minor or conservatee is or has been during the guardianship or conservatorship confined in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, mail a copy to the director of the appropriate department in Sacramento (Prob. Code, § 2611).
3. The representative, guardian, conservator, or small estate claimant shall list on Attachment 1 and appraise as of the date of death of the decedent or date of appointment of the guardian or conservator at fair market value moneys, currency, cash items, bank accounts and amounts on deposit with each financial institution (as defined in Probate Code section 40), and the proceeds of life and accident insurance policies and retirement plans payable upon death in lump sum amounts to the estate, except items whose fair market value is, in the opinion of the representative, an amount different from the ostensible value or specified amount.
4. The representative, guardian, conservator, or small estate claimant shall list in Attachment 2 all other assets of the estate which shall be appraised by the referee.
5. If joint tenancy and other assets are listed for appraisal purposes only and not as part of the probate estate, they must be separately listed on additional attachments and their value excluded from the total valuation of Attachments 1 and 2.
6. Each attachment should conform to the format approved by the Judicial Council (see *Inventory and Appraisal Attachment* (form DE-161, GC-041) and Cal. Rules of Court, rule 201).

| | |
|--|------------------------------|
| ESTATE OF (Name): _____ Jeanne Lowry | CASE NUMBER: A-396254 |
|--|------------------------------|

INVENTORY AND APPRAISAL
ATTACHMENT NO.: 1

(In decedents' estates, attachments must conform to Probate
Code section 8850(c) regarding community and separate property.)

Page: 1 of: 1 total pages.
(Add pages as required.)

| <u>Item No.</u> | <u>Description</u> | <u>Appraised value</u> |
|--------------------|--|------------------------|
| 1. | Cash found at 121 View Place, Newport Beach, California, conservatee's residence | \$ 250.00 |
| 2. | Balance in checking account No. 14655, Southern California Savings and Loan, 34900 Irvine Grove Blvd., Newport Beach, California 92660 | 7392.38 |
| 3. | Balance in savings account No. 14654, Southern California Savings and Loan, 34900 Irvine Grove Blvd., Newport Beach, California 92660 | 37,747.04 |
| 4. | Certificate of Deposit No. 1765432, Hometown Federal Bank, 900 Washington Blvd., Los Angeles, CA 90083, in the name of Jeanne Lowry and Marshall Lowry (deceased) as joint tenants | 10,000.00 |
| 5. | Uncashed check from East Coast Teachers Pension Fund, dated 3/1/90, payable to conservatee | 554.47 |
| 6. | Uncashed check from Social Security dated 3/1/90, payable to conservatee | 498.00 |
| 7. | Uncashed dividend check from Safeguard Investment Mutual Fund, dated 3/2/90, payable to conservatee | 352.70 |
| TOTAL CASH ASSETS: | | \$56,794.59 |

Conservator of the estate lists all cash assets and writes down their values.

| | |
|--|------------------------------|
| ESTATE OF (Name): _____ Jeanne Lowry | CASE NUMBER: A-396254 |
|--|------------------------------|

INVENTORY AND APPRAISAL
ATTACHMENT NO.: 2

(In decedents' estates, attachments must conform to Probate
Code section 8850(c) regarding community and separate property.)

Page: 1 of: 1 total pages.
(Add pages as required.)

| <u>Item No.</u> | <u>Description</u> | <u>Appraised value</u> |
|-----------------|--|------------------------|
| 1. | Real property in the City of Newport Beach, County of Orange, State of California, described as Lot 36 in Block 420 of Tract 91, as per map recorded in Book 2 of Parcel Maps, page 42, in the office of the County Recorder of said county. This property is commonly known as 121 View Place, Newport Beach, California (improved with single family dwelling). Assessor's Parcel No. 3. | \$ _____ |
| 2. | Vacation home. Real property in the City of Palm Springs, County of Riverside, State of California, described as Lot 3 in Block 102 of Subdivision 82, as per map recorded in Book 43 of Maps, page 29, in the office of the County Recorder of said county. This property is commonly known as 2446 W. Sunburst, Palm Springs, California. Assessor's Parcel No. 18.3. | _____ |
| 3. | Household furniture and furnishings at 121 View Place, Newport Beach | _____ |
| 4. | 1425 shares Safeguard Investment Mutual Fund | _____ |
| 5. | One \$50 U.S. Savings Bond, Series E, issued May 3, 1950 | _____ |
| 6. | Seven \$100 U.S. Savings Bonds, Series EE, issued May 2, 1955 | _____ |
| 7. | 1994 Oldsmobile Cutlass Supreme, 2-door model, California vehicle license No. 822HUD | _____ |
| 8. | Diamond wedding ring (2 carat) | _____ |
| | | _____ |
| | | _____ |
| | TOTAL NONCASH ASSETS: \$ | ===== |

Conservator of the estate writes a detailed description of all noncash assets. Probate referee fills in appraised values.

APPENDIX D

SAMPLE

ACCOUNT AND REPORT

Conservators of the estate must file an account of the conservatorship estate one year after appointment and at least once every two years after that. The account includes a written report to the probate court explaining what the conservator of the estate has done to manage the estate, and, particularly if he or she is requesting compensation, what the conservator of the person has done to care for the conservatee. The report should also describe the conservatee's current circumstances.

The report is accompanied by accounting schedules that show what the conservator has done and the current condition of the estate in dollar figures. The report also asks the judge to approve the conservator's actions in managing the estate and in caring for the conservatee and to approve any other requests the conservator makes, such as for orders approving compensation for the conservator and for his or her lawyer. For this reason, the report is sometimes called a petition, or a petition and report.

If you have a lawyer, he or she will prepare the petition and report, based on information you provide. **■** Your lawyer may also prepare the accounting schedules, based on the records you have kept during the time period covered by the account. Sometimes the conservator of the estate will prepare the accounting schedules for attachment to the petition and report prepared by his or her lawyer. You and your lawyer should work out well ahead of time who is going to be responsible for each portion of the petition, account, and report. **■**

The sample Account in this handbook has two parts:

1. A written petition and report, with a request for conservator's and attorney's fees, and including a summary of the account
2. The following schedules of the accounting:
 - Schedule A, money received by the estate
 - Schedule B, gains on sales of estate assets
 - Schedule C, expenditures of estate funds
 - Schedule D, losses on sales of estate assets
 - Schedule E, assets on hand
 - Schedule F, statement of estate liabilities

The account and report must be typewritten or prepared on a computer. You'll be glad you've kept good records throughout the year when it comes time to preparing the accounting!

See Chapter 5, Sections 7(C) and 8, for help on setting up and keeping good records, and for a more detailed discussion of your account and report.

JARED ROBERTS, State Bar No. 123456
Attorney at Law
16201 Financial Center Drive
Santa Ana, CA 92705
(714) 555-3476, (714) 555-3477 (Fax)

Attorney for DAVID LOWRY, Conservator

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

| | |
|-------------------------------|----------------------------------|
| Conservatorship of the Person |) Case No.: A-396254 |
| and Estate of: |) FIRST ACCOUNT CURRENT AND |
| |) REPORT OF CONSERVATOR AND |
| JEANNE LOWRY, also known as |) PETITION FOR ITS SETTLEMENT, |
| JEANNE GRAY, |) FOR APPROVAL OF SALE OF |
| |) DEPRECIATING PROPERTY, AND FOR |
| Conservatee |) ALLOWANCE OF CONSERVATOR'S AND |
| |) ATTORNEY'S COMPENSATION. |

Petitioner, David Lowry (hereinafter conservator), as
conservator of the estate of Jeanne Lowry, conservatee, presents
for settlement and allowance his verified first account current
and report of the estate and his acts as conservator. Petitioner
respectfully states:

1. APPOINTMENT. Petitioner was appointed conservator of the
person and estate of Jeanne Lowry, also known as Jeanne Gray,
the conservatee, on March 8, 2000, and Letters of
Conservatorship were issued on March 14, 2000. At all times
since his appointment David Lowry has been acting as the
conservator.

FIRST ACCOUNT CURRENT OF CONSERVATOR

2. INVENTORY AND APPRAISAL. An Inventory and Appraisal of the estate was duly returned and filed herein on May 25, 2000, showing the value of the estate to be \$1,341,208.59.

3. PERIOD OF ACCOUNT. This account and report covers the period from March 8, 2000, to March 7, 2001, both dates inclusive.

4. CHARGES AND CREDITS. The conservator is chargeable and is entitled to the credits, respectively, as set forth in this Summary of Account, whose supporting schedules are attached and incorporated in this petition by reference.

SUMMARY OF ACCOUNT

CHARGES:

| | |
|-----------------------------|-------------------------|
| Inventory and Appraisal | \$1,341,208.59 * |
| Receipts (Schedule A) | 43,181.98 |
| Gains on Sales (Schedule B) | <u>19,100.00</u> |
| TOTAL CHARGES | <u>\$1,403,490.57 ‡</u> |

CREDITS:

| | |
|------------------------------|-------------------------|
| Disbursements—(Schedule C) | \$130,521.04 |
| Losses on Sales—(Schedule D) | 125.00 |
| Assets on Hand (Schedule E) | <u>1,272,844.53 †</u> |
| TOTAL CREDITS | <u>\$1,403,490.57 ‡</u> |

The Summary of Account is often placed behind the petition and report as an exhibit to the report, just before the schedules it refers to. Either method is okay.

* This figure comes from the total in the appraisals section of the cover sheet of the Inventory and Appraisal after it comes back from the Probate Referee.

† You will use this figure as the first entry in the "Charges" section in your next accounting.

‡ These two figures must match!

1 5. AUTHORIZED INVESTMENTS. During the period of this account,
2 all cash of this conservatorship estate has been invested and
3 maintained in interest bearing accounts or in investments
4 authorized by law, except for an amount reasonably necessary for
5 the orderly administration of the estate.

6 6. STATEMENT OF LIABILITIES. Attached as Schedule F and
7 incorporated in this petition by reference, is a statement of
8 all liabilities of the estate that are a lien on estate assets.
9 There are no taxes due but unpaid, and no outstanding judgments
10 for which the estate is liable.

11 7. SALE OF AUTOMOBILE. Conservator sold the conservatee's
12 automobile, Inventory and Appraisal, Attachment 2, Item 7, for a
13 loss on sale, as set forth on Schedule D attached hereto.
14 Conservator requests confirmation and approval of the sale as a
15 sale of depreciating property.

16 8. SALE OF FURNITURE AND FURNISHINGS. Conservator sold the
17 furniture and furnishings in the conservatee's Newport Beach
18 home, Inventory and Appraisal, Attachment 2, Item 3. This sale
19 was made necessary because the home was rented to a family with
20 their own furniture and furnishings, so the conservatee's
21 furniture and furnishings would have had to be stored at the
22 estate's expense if they had not been sold. As the
23 investigator's report of February 27, 2001 indicates, the
24 conservatee will never be able to return home, and will never
25 have further use for the items sold. The sale was conducted on a
26 consignment basis by a professional used furniture dealer in a
27 manner similar to a yard or garage sale. The items sold were not
28 considered numerous or valuable enough for an auction. The

1 property was sold for its appraised value, \$2,500.00, less the
2 dealer's charge of 20 per cent of the amount realized.

3 Conservator requests confirmation and approval of this sale as
4 the sale of depreciable personal property, or as the sale of
5 personal property under \$5,000.00 in value (Probate Code section
6 2545). Conservator alleges that the conservatee does not have
7 legal capacity to consent to the sale, for the reasons stated in
8 the investigator's report dated February 27, 2001.

9 9. SALE OF REAL PROPERTY. Conservator sold the conservatee's
10 vacation home in Palm Springs, California, for a gain on sale as
11 set forth in Schedule B attached hereto. The order of this Court
12 confirming the sale was filed on November 7, 2000.

13 10. ADDITIONAL BOND. At the time the sale of the conservatee's
14 vacation home was confirmed, Conservator applied for and the
15 court filed an order increasing the amount of the bond. The
16 property was sold for all cash to the estate, and there was an
17 encumbrance in the amount of \$50,500.00 against it. The net sum
18 of cash received by Conservator, after deducting from the gross
19 sale price all costs of sale charged to seller in the sale
20 escrow and the encumbrance paid off in the escrow, was
21 \$183,418.50. An order increasing the bond by the amount of
22 \$184,000 was filed on November 6, 2000. The additional bond was
23 filed on November 7, 2000. Conservator believes the total amount
24 of the bonds filed in this proceeding is sufficient.

25 /

26 /

27 /

28 /

FIRST ACCOUNT CURRENT OF CONSERVATOR

1 *After appointment, the conservator of the estate must file a bond in an amount based on the estimated value*
2 *of the conservatee's personal property and the conservatee's estimated annual income from all of his or her*
3 *property and from certain public benefits. The estimate is made in the petition for appointment of conservator,*
4 *the first document filed with the court at the beginning of the conservatorship. It is often made before the*
5 *petitioner (the person requesting appointment of a conservator) has enough information to make an accurate*
6 *estimate. If the initial estimate turns out to be too low, or if real property is changed to personal property,*
7 *such as when it is sold for cash, the amount of bond required by the law may become greater than the*
8 *amount of the original bond. In that case, the conservator must apply to the court for an order increasing the*
9 *amount of the bond to equal the required amount and then must obtain and file the increased bond. You*
10 *should consult with your lawyer when any question about your bond arises, and both of you must pay close*
11 *attention at all times to the value and kind of assets in the estate, the amount of bond you have on file, and*
12 *the amount of bond required by the law. L*

13 *You may also apply to the court for an order reducing your bond if the size of the estate falls below the*
14 *amount of required bond. Annual bond premiums are expensive. It's better to have too much bond rather than*
15 *too little, but it is a good idea not to carry and pay for a lot more bond than you need. L*

16
17
18
19 11. NO AFFILIATE RELATIONSHIPS. During the period of this
20 account, Conservator has not hired any agent who has a family or
21 affiliate relationship with Conservator.

22 *You must disclose the family or affiliate relationship between you and anyone you hire to help you or the con-*
23 *servatee. It is a good idea, although not required, to state that you have not hired any related or affiliated per-*
24 *sons if that is true.*

25 *An "affiliate" is a person or business entity that directly or indirectly controls or is controlled by a conserva-*
26 *tor, or is under common control with a conservator that is itself a business entity. A nonprofessional individ-*
27 *ual conservator would usually be concerned only about family relationships.*

28 *You may hire and pay a family member, but you must fully disclose the relationship to the court. If you do*
employ a family member, make sure that the cost of the employment is no greater than if you had employed a
nonrelative, that the person is fully qualified and capable of performing the services, and that you are able to
exercise proper supervision.

29 12. CONSERVATOR'S COMPENSATION. Conservator has spent over one
30 hundred and fifty (150) hours providing services to his mother,
31 the conservatee. Conservator has visited the care facility where
32 the conservatee lives at least once a week and made sure that

1 she is receiving proper care and that all her personal needs are
2 met. Conservator has marshaled all conservatorship assets, paid
3 all bills promptly, and managed the estate frugally. Conservator
4 arranged for the sale of the conservatee's automobile which she
5 can no longer drive, listed for sale and sold the conservatee's
6 Palm Springs vacation home to raise money for her care, and
7 rented out the conservatee's Newport Beach home for a monthly
8 rental greater than the cost of maintaining the property.
9 Conservator has received no compensation for his services.
10 Conservator requests he be awarded \$500.00, which is a
11 reasonable and nominal sum, to compensate him for the time he
12 missed work to attend court hearings.

13 13. ATTORNEY'S COMPENSATION. Conservator retained the services
14 of Jared Roberts, Attorney at Law, to advise him in all matters
15 concerning the conservatorship in which it was necessary to have
16 advice of counsel in the proper administration and conduct of
17 the conservatorship. No payments have been made to the attorney
18 for services rendered to the conservator and estate. Mr.
19 Roberts' declaration setting forth his services and requested
20 compensation is attached as Exhibit A and incorporated by
21 reference. Petitioner requests the Court allow his attorney the
22 sum of \$3,500.00 as reasonable compensation for services
23 rendered.

24 *Exhibit A would be prepared by your lawyer. [L] It follows the accounting schedules in this sample. If you*
25 *request compensation for your services as conservator in an amount more than the nominal sum requested in*
26 *this sample petition, you would be required to describe your services in detail in the body of your petition or*
27 *in your own declaration attached to your account.*

28 /

1 14. VETERANS ADMINISTRATION BENEFITS. The conservatee is not
2 receiving money from or through the Veterans Administration. The
3 conservatee does not receive revenue or profit from money
4 obtained from the Veterans Administration or from property
5 wholly or in part acquired with money from the Veterans
6 Administration. The conservatorship estate does not include
7 property acquired, wholly or in part, from money from the
8 Veterans Administration.

9 15. STATE HOSPITAL. During this conservatorship the conservatee
10 has not been a patient in or on leave of absence from a state
11 hospital under the jurisdiction of the State Department of
12 Mental Health or the State Department of Developmental Services.

13
14 *The statements in Paragraphs 14 and 15 show that the conservator does not have to give notice of the hear-*
15 *ing on his account to the VA or to the California state departments of mental health or developmental services.*
16 *If your conservatee is or was a state hospital inpatient during the period of your account, you would only*
17 *have to give notice of the hearing to the appropriate state department. You would not have to mention the*
conservatee's inpatient status in your report if you don't want to put that information in the public record.

18 16. CONSERVATEE'S ADDRESS. The conservatee is now living at Best
19 Care Convalescent Hospital located at 17000 Maple Street,
20 Tustin, California.

21 *The conservatee's address is not required in the report as long as the court investigator has the current infor-*
22 *mation. Whenever there is a change in the conservatee's address or telephone number, you must file a*
23 *Judicial Council form advising the court of the change.*

24 *Some courts also have their own forms calling for the conservatee's and the conservator's current addresses*
25 *and telephone numbers, and for other information as well. The court may require that its form be filed with*
26 *every accounting, whether or not there has been any change in the information provided. You or your lawyer*
27 *should check with your court for its requirements for information to be included in or provided with your*
28 *account.* **L**

/

1 17. ACCOUNT STATEMENTS. Submitted to the court with, but not
2 attached to, this account and report, are original account
3 statements from financial institutions showing the balance of
4 all accounts where money of the estate is or was deposited, for
5 the period immediately preceding the date of the conservator's
6 appointment, and for the period including the ending date of
7 this accounting.

8 *The original bank statements are delivered to the court, but they are not filed and do not become part of the*
9 *public record.*

10 *If the total amount of cash collected from the conservatee's bank accounts shown in the Inventory and*
11 *Appraisal doesn't match the amount shown in the bank statements for those accounts for the period just*
12 *before the date of the conservator's appointment, or if the amount of cash shown on hand in the accounting*
13 *doesn't match the amounts shown on the bank statements for the conservator's bank accounts for the period*
14 *including the ending date of the accounting, an explanation must be given. This would be done in a separate*
15 *schedule in the accounting, not shown in the sample. The usual explanation for these differences is the*
16 *effect of outstanding checks or deposits shown in the accounting but not yet shown in the bank statements.*
17 *If there are stock brokerage accounts or accounts at other kinds of institutions, their statements must also be*
18 *delivered to the court.*

19 *When a conservator's name is added to an existing account, or when a new account is opened showing the*
20 *conservatorship, the financial or other institution maintaining the account must directly advise the court of*
21 *these facts and must give the court the balance or value of the account when changed or opened.*

22 18. CAPITAL CHANGES. During the period of this account there
23 have been no changes in the form of non-cash assets of the
24 estate, other than the sales of real and personal property
25 disclosed above and apparent from the attached schedules.

26 *There must be a statement in the report, or in a separate schedule filed as part of the account, showing*
27 *changes in the conservatee's assets held by the conservator from those identified in the Inventory and*
28 *Appraisal or shown as assets on hand in a prior account. Included in this statement would be transactions*
such as purchases of new stocks or bonds or other investments by the conservator during the period of the
account, stock dividends and stock splits, and stock purchases from automatic cash dividend reinvestment
programs. Changes in the form of holding cash assets, such as movements of cash between checking and
savings accounts, do not have to be shown. Sales of estate assets for cash are changes in assets, but they
are usually separately stated, as they have been in this sample. This paragraph is not required if there have
been no reportable changes in assets, but if that is true, it is a good idea to say so.

1 19. SPECIAL NOTICE. There is no request for special notice on
2 file herein.

3 *People interested in the conservatorship may file with the court and serve on the conservator a request that*
4 *they be given advance written notice of hearing dates for significant matters filed in the proceeding, includ-*
5 *ing accounts filed by the conservator. If you have a lawyer, he or she will receive any of these requests for*
6 *special notice. [L] The statement in this paragraph should be made if no requests have been made.*

7 *If there have been requests for special notice, prior written notice of the hearing on the account and report,*
8 *and a copy of it, must be sent to each person who made the request. The court keeps a list of those persons.*
9 *If they are not given timely notice of the hearing or a copy of the account and report, the court can't approve*
10 *the account. The hearing is instead postponed so proper notice can be given. Generally, the people eligible to*
11 *request special notice are those who have the right to object to the account and report. If objections are filed*
12 *by a person who has that right, the hearing on the account proceeds as a contested lawsuit, often many*
13 *months after the originally scheduled hearing date.*

14 WHEREFORE, conservator prays:

- 15 1. That this account and report be approved and settled;
- 16 2. That the acts of the conservator shown in the account and
17 report be approved;
- 18 3. That the sale of the conservatee's automobile be approved and
19 confirmed as a sale of a depreciating asset;
- 20 4. That the sale of the conservatee's furniture and furnishings
21 be approved and confirmed as a sale of a depreciating asset or
22 the sale of personal property valued at less than \$5,000.00
23 during a calendar year;
- 24 5. That, upon the settlement of this account, conservator be
25 authorized and directed to pay himself the sum of \$500.00 as
26 compensation for his services rendered during the period of this
27 account;
- 28 6. That, upon the settlement of this account, the conservator be
authorized and directed to pay to his attorney, Jared Roberts, Esq.,
the sum of \$3,500.00 as compensation for services rendered

1 and, as yet, unpaid; and

2 7. That the Court grant such other and further relief as it
3 deems just and proper.

4 DATE: May 15, 2001

5
6 _____
7 DAVID LOWRY, Conservator

8
9 _____
10 JARED ROBERTS, Esq.
11 Attorney for Conservator

VERIFICATION

I, the undersigned, state:

I am the conservator of the person and estate of the above-named conservatee. The account, which includes the report and all supporting schedules, is true of my own knowledge, except as the matters that are stated in it on my information and belief, and as to these matters I believe them to be true. The account contains a full statement of all charges against me and of all credits to which I am entitled in the estate during the accounting period.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: May 15, 2001

DAVID LOWRY, Conservator

FIRST ACCOUNT CURRENT OF CONSERVATOR

CONSERVATORSHIP OF JEANNE LOWRY—CASE NO. A-396254

SCHEDULE A—RECEIPTS

For the Period 3/8/00 to and including 3/7/01

| DATE OF RECEIPT | AMOUNTS | |
|---|-----------------|------------|
| Social Security | | |
| 4/1/00–6/1/00, 3 mos. at \$757.00 each | \$2,271.00 | |
| 7/1/00–12/1/00, 6 mos. at \$772.00 each | 4,632.00 | |
| 1/1/01–3/2/01, 3 mos. at \$788.00 each | <u>2,363.00</u> | \$9,266.00 |
| East Coast Teachers—Pension | | |
| 4/1/00 | | |
| 5/1/00 | \$ 721.87 | |
| 6/1/00 | 554.47 | |
| 7/1/00 | 554.47 | |
| 8/1/00 | 721.87 | |
| 9/1/00 | 554.47 | |
| 10/1/00 | 554.47 | |
| 11/1/00 | 721.87 | |
| 12/1/00 | 554.47 | |
| 1/1/01 | 554.47 | |
| 2/1/01 | 721.87 | |
| 3/1/01 | 582.00 | |
| | <u>582.00</u> | 7,378.30 |
| Safeguard Investment—Cash Dividends | | |
| 4/1/00 through 3/1/01, 12 months at \$352.70 each | | 4,232.40 |
| Interest Income | | |
| Southern California Savings and Loan Account No. 146541 | | |
| 3/24/90 | \$ 776.95 | |
| 6/23/00 | 785.58 | |
| 9/22/00 | 794.21 | |
| 12/22/00 | <u>794.21</u> | 3,150.95 |

SCHEDULE A-RECEIPTS

| DATE OF RECEIPT | | AMOUNTS |
|---|---|----------------------------|
| Rental Income-121 View Place, Newport Beach | | |
| 8/1/00 through 8 months at \$2,500.00 each | | \$20,000.00 |
| 3/1/01 | | |
| Miscellaneous Receipts | | |
| 8/20/00 | Social Security Administration, Medicare Part B refund. | \$13.21 |
| 5/10/01 | State of California, 2000 state income tax refund. | 97.00 |
| 6/28/01 | American Health, insurance reimbursement for prescription. | <u>44.12</u> <u>154.33</u> |
| | TOTAL RECEIPTS | <u>\$43,181.98</u> |

SCHEDULE B—GAINS ON SALES

Inventory and Appraisal, Attachment 2, Item 2:

Single-family residence located at 2446 W. Sunburst, Palm Springs, California, sold on October 15, 2000.

| | |
|------------------|-----------------------|
| SOLD FOR: | \$250,000.00 |
| APPRAISED VALUE: | (<u>230,900.00</u>) |
| GAIN ON SALE | <u>\$19,100.00</u> |

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|------|---|----------|
| 2000 | | |
| 3/9 | Medicare Ambulance: Transport from rehab to nursing home. | \$ 60.00 |
| 3/15 | Tax Preparers, Inc.: Preparation of conservatee's 1999 income tax returns. | 300.00 |
| | Downey Savings Bank: February and March payments on loan secured by first trust deed on Newport Beach real property, and late fee for February payment. | 2,450.00 |
| 3/29 | David Lowry (conservator): Reimbursement for payment of first year's bond premium. | 235.00 |
| | Best Care Convalescent Hospital: Care of conservatee, to 3/25. | 3,987.40 |
| 4/2 | Downey Savings Bank: April loan payment, Newport Beach home. | 1,200.00 |
| 4/11 | Jared Roberts, Esq. (conservator's attorney), reimbursement of costs advanced: County Clerk: Filing fee. \$185.00 Attorney Service: Service of citation. 29.00 County Clerk: Certified copies, Letters of Conservatorship. <u>25.50</u> | 239.50 |
| | Internal Revenue Service: Balance due, conservatee's 1999 federal income taxes. | 154.00 |
| 4/29 | Best Care Convalescent Hospital: Care of conservatee, to 04/25. | 3,160.15 |

The importance of keeping good records can't be overstated! Preparing the accounting will be much easier if you've kept thorough, well-organized records of income and expenses throughout the year.

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|------|--|----------|
| 2000 | | |
| 5/2 | Verizon California: Conservatee's telephone, to 04/25. | \$ 50.34 |
| | Golden State Pharmacy: Prescriptions for conservatee. | 25.97 |
| 5/11 | Mary Smith: Probate referee's appraisal fee. | 1,306.52 |
| 5/15 | Downey Savings Bank: May loan payment, Newport Beach home. | 1,200.00 |
| 5/20 | Comfort-Fit Fashions: Clothing for conservatee. | 260.00 |
| 5/25 | Verizon California: Conservatee's telephone, to May 24th. | 16.76 |
| | Internal Medicine Group: Medical care for conservatee. | 135.75 |
| 5/29 | Best Care Convalescent Hospital: Care of conservatee, to 05/25. | 3,152.75 |
| 6/2 | Downey Savings Bank: June loan payment, Newport Beach home. | 1,200.00 |
| 6/8 | Best Care Convalescent Hospital: salon permanent for conservatee. | 65.00 |
| 6/26 | Verizon California: Conservatee's telephone, to June 24th. | 74.62 |
| 6/29 | Best Care Convalescent Hospital: Care of conservatee, to 6/25. | 3,129.75 |

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|------|---|------------|
| 2000 | | |
| 7/2 | Downey Savings Bank: July loan payment, Newport Beach home. | \$1,200.00 |
| 7/11 | The Party People, Inc.: Party supplies and cake for conservatee's birthday party. | 95.42 |
| 7/25 | Verizon California: Conservatee's telephone, to 7/25. | 23.51 |
| 7/29 | Best Care Convalescent Hospital: Care of conservatee, to 07/25. | 3,039.00 |
| 8/2 | Downey Savings Bank: August loan payment, Newport Beach home. | 1,200.00 |
| 8/6 | Excellent X-Ray: Medical care for conservatee. | 105.02 |
| 8/23 | Adam Bright, D.D.S.: Relining of conservatee's upper/lower dentures. | 550.00 |
| | Best Care Convalescent Hospital: Care of conservatee to 8/25 | 3,057.00 |
| 8/29 | Verizon California: Conservatee's telephone, to 7/25. | 21.02 |
| 9/2 | Downey Savings Bank: September loan payment, Newport Beach home. | 1,200.00 |
| 9/16 | Lorraine Lowry (conservator's spouse): Reimbursement for incidental grooming items for conservatee. | 25.77 |
| 9/26 | Best Care Convalescent Hospital: Care of conservatee, to 9/25 | 3,126.00 |

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|-------|---|----------|
| 2000 | | |
| 9/26 | Verizon California: Conservatee's telephone, to 9/25. | \$ 16.29 |
| 10/2 | Downey Savings Bank: October loan payment, Newport Beach home. | 1,200.00 |
| 10/20 | James Starr, D.P.M.: Podiatry services for conservatee. | 89.82 |
| 10/25 | Verizon California: Conservatee's telephone, to 10/25. | 31.59 |
| 10/29 | Best Care Convalescent Hospital: Care of conservatee, to 10/25. | 3,112.00 |
| 11/2 | Downey Savings Bank: November loan payment, Newport Beach home. | 1,200.00 |
| 11/6 | American Indemnity Co.: First year's premium on additional bond. | 478.40 |
| 11/28 | Verizon California: Conservatee's telephone, to 11/25. | 50.33 |
| | Best Care Convalescent Hospital: Care of conservatee, to 11/25. | 3,136.90 |
| 12/2 | Downey Savings Bank: December loan payment, Newport Beach home. | 1,200.00 |
| 12/09 | Orange County Tax Collector Property taxes (both halves), Newport Beach real property. | 2,054.00 |
| | U-R Safe Insurance Services, Inc.: Annual premium, homeowner's insurance, conservatee's Newport Beach property. | 1,529.90 |
| 12/19 | Shores Department Store: Perfumes and holiday gift items for conservatee to give aide staff and family. | 157.50 |

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|-------|--|------------|
| 2000 | | |
| 12/29 | Best Care Convalescent Hospital: Care of conservatee, to 12/25. | \$3,126.50 |
| | Verizon California: Conservatee's telephone, to 12/25. | 16.29 |
| 2001 | | |
| 1/3 | Downey Savings Bank: January loan payment, Newport Beach home. | 1,200.00 |
| 1/7 | Howard Lester, M.D.: Ophthalmologic exam and new eyeglasses for conservatee. | 275.00 |
| 1/29 | Best Care Convalescent Hospital: Care of conservatee, to 1/25. | 3,112.00 |
| | Verizon California: Conservatee's telephone, to 1/25. | 27.18 |
| 2/2 | Downey Savings Bank: February loan payment, Newport Beach home. | 1,200.00 |
| 2/7 | Furniture Resales, Inc. Fee for sale of conservatee's furniture and furnishings | 500.00 |
| 2/15 | We Close Escrow, Inc.: Costs of sale of Palm Springs vacation home property paid through escrow. Escrow fee. \$665.00 Termite inspection/repairs. 291.50 Sub escrow fee, loan payoff. 125.00 Broker's commission. <u>15,000.00</u> | 16,081.50 |
| | Washington Mutual Bank: Secured loan payoff, Palm Springs property. | 50,500.00 |
| | Best Care Convalescent Hospital: Care of conservatee, to 2/25. | 2,958.90 |
| | Verizon California: Conservatee's telephone, to 2/25. | 20.69 |

SCHEDULE C-DISBURSEMENTS

| DATE | PAYEE AND PURPOSE | AMOUNT |
|------|---|---------------------|
| 2001 | | |
| 2/28 | Downey Savings Bank: March loan payment, Newport Beach home. | <u>1,200.00</u> |
| | TOTAL DISBURSEMENTS | <u>\$130,521.04</u> |

*This disbursements schedule has been prepared in a simple chronological format. Sometimes for more complicated estates, or if local court rules require it, a disbursements schedule may show expenditures listed by separate categories, such as the conservatee's support and personal living expenses, the conservatee's medical expenses, property maintenance expenses, estate administration expenses, and the like. Sometimes local court rules may require additional information about an expenditure as well, such as the check number of the check used to pay it. You and your lawyer should carefully check and follow your court's local rules concerning the content and format of accounting schedules. **L***

SCHEDULE D—LOSSES ON SALES

Inventory and Appraisal, Attachment 2, Item 7:

1994 Oldsmobile 2-door Cutlass Supreme automobile

| | |
|------------------|-------------------------|
| APPRAISED VALUE: | \$3,125.00 |
| SOLD FOR: | (<u>3,000.00</u>) |
| LOSS ON SALE | \$ <u><u>125.00</u></u> |

SCHEDULE E-ASSETS ON HAND AS OF MARCH 7, 2001

Cash Assets:

| | |
|---|----------------------------|
| Southern California Savings Bank, Account No. 14655 (checking) | \$ 5,728.91 |
| Southern California Savings Bank, Account No. 14654 (savings) | 57,593.58 |
| Hometown Federal Bank Certificate of Deposit No. 1765432 | 11,633.04 |
| Downey Savings Bank Certificate of Deposit No. 298254 | 50,000.00 |
| Washington Mutual Bank Certificate of Deposit No. 862-11457 | <u>100,000.00</u> |
| Total Cash Assets | <u><u>\$224,955.53</u></u> |

Other Assets:

| Description | Estimated Current Value | Appraised Value |
|--|------------------------------|------------------------------|
| 1425 shares Safeguard Investment Mutual Fund, (Inv. & App., Attach. 2, Item 4). | \$95,675.00 | \$92,525.00 |
| One \$50 U.S. Savings Bond, Series E, (Inv. & App., Attach. 2, Item 5). | 255.00 | 263.00 |
| Seven \$100 U.S. Savings Bonds, Series EE, (Inv. & App., Attach. 2, Item 6). | 2,750.00 | 3,101.00 |
| Single family residence, 121 View Place, Newport Beach, (Inv. & App., Attach. 2, Item 1). | 1,100,000.00 | 950,000.00 |
| Diamond wedding ring (2 carat), (Inv. & App., Attach. 2, Item 8). | <u>\$2,500.00</u> | <u>\$2,000.00</u> |
| Total Non-Cash Assets | <u><u>\$1,201,180.00</u></u> | <u><u>\$1,047,889.00</u></u> |

RECAPITULATION

| | |
|---|-----------------------|
| Cash Assets | \$224,955.53 |
| Non-Cash Assets (appraised value): | <u>1,047,889.00</u> |
| TOTAL ASSETS ON HAND (appraised value): | <u>\$1,272,844.53</u> |

SCHEDULE F

STATEMENT OF ESTATE LIABILITIES

The conservatorship estate is indebted to Downey Savings Bank on a promissory note secured by first trust deed on the estate's real property in Newport Beach, California (Inventory and Appraisal, Attachment 2, Item No. 1). The balance due on the note as of March 7, 2001 is \$124,885.00. The note calls for monthly payments of \$1,200.00, bears interest at the rate of 7.5% per annum, is fully amortized with no balloon payment, and is current.

DECLARATION OF JARED ROBERTS IN SUPPORT OF
REQUEST FOR ATTORNEY'S FEES

I, Jared Roberts, declare as follows:

1. I am an attorney at law, licensed to practice in the courts of the State of California, and attorney of record for David Lowry, conservator of the person and estate of Jeanne Lowry. I have represented the conservator throughout the period of this account, and indeed since before this proceeding began.

2. I am familiar with the time and other records maintained by my firm in this matter. All services performed by my firm were performed by me.

3. I am requesting an attorney's fee of \$3,500.00 for my legal services to the conservator during the period of this account, representing 17.5 hours of services at the hourly rate of \$200.00. I was admitted to the California Bar in 1985. Probate and related matters, including conservatorships, have formed a substantial part of my practice since 1990. I am a member of the Probate and Trust Section of the Orange County Bar Association, and the Estate Planning, Trust and Probate Law Section of the California Bar.

4. My legal services can be broken down into the following subject matter categories, with the indicated number of hours spent in each category:

| | | |
|----|--|----------|
| A. | Appointment of conservator: | 5.5 hrs. |
| B. | Preparation of Inventory and Appraisal, and appraisal process: | 1.5 hrs. |
| C. | Consignment sale of personal property: | 2.0 hrs. |

/

Exh. A-1

| | | |
|----|---|-------------------------|
| D. | Sale of real property, confirmation of sale, application for order increasing bond: | 4.0 hrs. |
| E. | Preparation of First Account Current, petition and report and proposed order: | <u>4.5 hrs.</u> |
| | Total Hours | <u><u>17.5 hrs.</u></u> |

Category A. Services.

5. These services include preparation of the Petition For Appointment of Conservator and all supporting documents. This in turn required two meetings and several telephone conversations with Mr. Lowry to collect the information necessary initially to determine whether conservatorship was appropriate and to consider the possible alternatives referred to in the Confidential Supplemental Information statement (Judicial Council form GC-312), and later to complete the petition and required supporting documents.

6. I conducted a telephone interview with Mrs. Lowry's treating physician, an internist, concerning Mrs. Lowry's condition generally, and specifically her physical problems that would prevent her attendance at the hearing on the petition, and prepared, obtained, and filed the internist's declaration. I arranged for Mrs. Lowry's examination and evaluation by a psychologist, and discussed the evaluation with the psychologist, in order to obtain the information necessary to complete the conservatorship capacity declaration (Judicial Council form GC-335). Based on that information, I prepared, circulated for signature, and filed the declaration.

7. I prepared and arranged for personal service of the Citation on Mrs. Lowry, and prepared and served the Notice of

1 Hearing of the petition on the interested persons identified in
2 the proof of service attached to the Notice.

3 8. I prepared the Order Appointing Conservator and the
4 Letters of Conservatorship, and arranged for and filed a
5 conservator's bond.

6 9. I attended and participated in the hearing on the
7 petition for appointment of conservator, and completed the steps
8 necessary for Mr. Lowry's successful qualification as
9 conservator of Mrs. Lowry's person and estate.

10 **Category B. Services**

11 10. I met with Mr. Lowry as needed to obtain the
12 information necessary to prepare the conservator's Inventory
13 and Appraisal, prepared the inventory based on that information
14 and on documents supplied by Mr. Lowry, transmitted the
15 completed inventory to the Probate Referee, and corresponded
16 with the referee as needed to enable him to complete his
17 appraisal of the Attachment 2 assets, including real property
18 in Orange and Riverside County. Upon completion of the referee's
19 appraisal, I circulated the returned Inventory and Appraisal to
20 Mr. Lowry for his signature, and filed it within the time
21 required by law.

22 **Category C. Services**

23 11. I discussed with Mr. Lowry the need to sell the
24 furnishings in Mrs. Lowry's Newport Beach home so the home
25 could be rented following Mrs. Lowry's move to a care facility
26 soon after Mr. Lowry's appointment as conservator. We decided,
27 after discussions with several used furniture dealers, my
28 research into the requirements for the sale of personal property

1 in a conservatorship, and consideration of an auction sale, to
2 proceed with one of the dealers in a consignment sale at the
3 home, similar to an estate sale but conducted professionally
4 after suitable advertising and promotion. I discussed the
5 proposed contract with the furniture dealer with Mr. Lowry,
6 reviewed the existing insurance coverage on the premises that
7 might affect the sale conducted there, and successfully
8 negotiated some changes in the initial proposal. The sale was
9 successful. All pieces were sold for their collective appraised
10 value.

11 **Category D. Services**

12 12. I discussed the prospects for sale of the
13 conservatee's Palm Springs vacation home with Mr. Lowry, and
14 advised him of the sale confirmation process and other
15 requirements of the law applicable to real property sales. I
16 reviewed the proposed listing agreement and modified it to allow
17 for court confirmation and the prospect of an overbid. After an
18 acceptable offer was received, I reviewed the escrow
19 instructions, advised my client as needed during the escrow
20 process, and prepared and filed the petition for confirmation
21 of sale. I attended the hearing on that petition, at which no
22 overbids were received and the sale was confirmed.

23 13. In order to obtain the order confirming sale, I
24 prepared and presented to the court, an application for increase
25 in the conservator's bond, in the anticipated net cash proceeds
26 to be received on completion of the sale escrow. I prepared and
27 filed the court's order increasing the bond and arranged with
28 the surety company to file the increased bond. The order

1 confirming sale was subsequently filed and the escrow closed
2 without delay on February 15, 2001.

3 **Category E. Services**

4 14. I assisted Mr. Lowry in the establishment of a simple
5 system for keeping track of income and disbursements in the
6 conservatorship, and monitored its maintenance during the period
7 of this account. Based on information provided by Mr. Lowry and
8 verified by statements from financial institutions I later filed
9 with the court at the time this account was filed, I prepared
10 the schedules of the account, and the petition and report to
11 which they are attached. I reviewed the completed petition,
12 account, and report with Mr. Lowry, obtained his signature, and
13 filed it. I will prepare and serve a copy of a Notice of Hearing
14 on the account and report, on all persons entitled to such
15 service under the law.

16 15. My request for compensation includes an estimated one
17 and one-half hours to attend and participate in the court
18 hearing on the petition, account, and report. I have prepared
19 the proposed order settling the account and approving the
20 petition as filed. I will present the proposed order to the
21 court at or in advance of the hearing, and will see to its
22 execution and filing after the hearing.

23 16. I anticipate, and this request for compensation
24 assumes, that there will be no objections to the petition,
25 account and report, and that it will be approved as filed. If
26 that anticipation and assumption are incorrect, I respectfully
27 request the right to submit a supplemental request for
28 compensation for additional services as future events may

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Executed on May 17, 2001

Jared Roberts

APPENDIX E

SUGGESTED READINGS FOR CONSERVATORS

1. Conservatorship

Farren, Carolyn, and Lisa Goldoftas. 3rd ed. *The Conservatorship Book for California*. Nolo Press, 1999.

This how-to book starts with information about whether to seek a conservatorship. It explains how to petition for a conservatorship, the responsibilities of a conservator, what is required by the court, how to end a conservatorship, and when a lawyer's help is needed. It includes legal forms and instructions.

Call 800-992-6656 or visit www.nolo.com to order a copy.

2. Developmentally and Mentally Disabled People

Protection and Advocacy, Inc., 100 Howe Avenue, Suite 185-N, Sacramento, CA 95825, 800-776-5746, or visit www.pai-ca.org.

- *California Children's Services*
- *In-Home Supportive Services*
- *In-Home Supportive Services: Fair Hearing and Self-Assessment Packet*

- *Rights Under the Lanterman Act (Regional Centers)*
- *Vocational Rehabilitation Rights and Services*

Protection and Advocacy, Inc., is not limited to advocacy for disabled people. It also has publications of interest to those caring for the elderly. Its materials on government and medical benefits, including Medicare and Medi-Cal, are extensive. Many of the publications can be downloaded without cost. Check this organization's Web site frequently for updates on its entire publication list.

3. The Elderly

American Association of Retired Persons. Order from AARP Fulfillment, 1909 K Street, N.W., Washington, D.C. 20049, or visit www.aarp.org. Single copies are free.

- *Home-Made Money: Consumer's Guide to Home Equity Conversion*, Stock No. D12894
- *Life Insurance for Older Adults*, Stock No. D14139
- *Medigap: Medicare Supplement Insurance—Consumer's Guide*, Stock No. D14042
- *Saving Energy Wisely*, Stock No. D14113

Bet Tzedek Legal Services. 145 South Fairfax # 200, Los Angeles, CA 90036. Call 323-939-0506 for information on ordering, or visit www.bettzedek.org.

- *Nursing Home Companion: A User-Friendly Guide to Nursing Home Laws and Practices*
- *How to Get Care from a Residential Care Facility*

Feil, Naomi. *The Validation Breakthrough: Simple Techniques for Communicating with People with Alzheimer's-Type Dementia*. Health Professions, 2002.

H.E.L.P. *Your Way: Making Decisions about Your Medical Care*. 1404 Cravens Avenue, Torrance, CA 90501. Two free copies per household. Call 310-533-1996 for information on ordering, or visit www.help4srs.org.

This workbook may be used in conjunction with a Durable Power of Attorney for Health Care to assist a decision maker in understanding a person's wishes and desires about medical care and end-of-life issues.

Kaufman, Sharon. *The Ageless Self: Sources of Meaning in Late Life*. University of Wisconsin Press, 1994.

This book reports the results of a study in which older people expressed their feelings about becoming old. Each story is unique, but together, the stories weave a clear pattern.

Mace, Nancy, and Peter Rabins. *The 36-Hour Day*. Rev. ed. Warner Books, 2001.

The subtitle of this book is *A Family Guide to Caring for Persons with Alzheimer's Disease, Related Dementing Illnesses, and Memory Loss in Later Life*. Written in straightforward language, this book explores the meaning of dementia, getting medical help for the impaired person, characteristic problems of dementia, problems in independent living, problems in daily care and with various types of behavior, getting outside help, how caring for an impaired person affects the caregiver, financial and legal issues, and nursing home placement.

Maddox, George L. and Robert Atchley (eds.) *The Encyclopedia of Aging: A Comprehensive Resource in Gerontology and Geriatrics*. 3rd ed. Springer Publishing Company, 2001.

This reference work provides concise, authoritative explanations for hundreds of terms and concepts related to the life of the elderly and the aging process. It also covers the growing range of programs and services for the elderly provided by community and government agencies and by legal, health, and other professionals.

Matthews, Joseph. *Beat the Nursing Home Trap: A Consumer's Guide to Assisted Living and Long-Term Care*. 3rd ed. Nolo Press, 2001.

This book offers guidance in choosing and paying for long-term care. It shows how to protect home and assets from prohibitive care costs, how to get the most from Medicare and other government programs, how to evaluate nursing home insurance policies and avoid scams, and how to prevent unnecessary institutionalization.

Matthews, Joseph, and Dorothy Matthews Berman. *Social Security, Medicare and Government Pensions*. 8th ed. Nolo Press, 2002.

This book offers guidance through the maze of rights and benefits for those who are 55 and over, including Medicare, Medicaid, and social security retirement and disability benefits.

Quinn, M. J., and S. K. Tomita. *Elder Abuse and Neglect: Causes, Diagnosis, and Intervention Strategies*. 2nd ed. Springer Publishing Company, 1997.

This textbook, with a foreword by Congressman Claude Pepper, details the types of abuse and neglect that the elderly experience. It was written for those who work with the elderly, but it is readable by the nonexpert. The book contains several case histories. It can be especially useful to the conservator appointed to correct abuses a conservatee may have suffered in the past.

Silverstone, Barbara, and Helen Kandel Hyman. *You and Your Aging Parent*. Pantheon Books, 1990.

This book's subtitle is *The Modern Family's Guide to Emotional, Physical, and Financial Problems*. The book begins by exploring the various emotions that families have toward aging relatives as well as feelings those relatives have about younger family members. The book explores other issues related to aging, including loss of physical health, retirement, sex after 65, facing death, getting help, and legal problems.

Standing Committee on Aging (ed.). *Senior Citizens' Handbook*. 3rd ed. State Bar of California, Legal Services Section, 555 Franklin Street, San Francisco, CA 94102 (415) 561-8250 (\$10 for seniors; \$20 general), 1990.

This comprehensive sourcebook for older Californians contains information about financial benefits, including social security, SSI, pensions, veterans' benefits, food stamps, and tax relief. It covers health care insurance such as Medicare and Medi-Cal, nursing homes and alternatives, estate planning, conservatorship, consumer problems, and funeral arrangements. It lists social services and other resources for older Californians.

Weiser, Jack. *Over Sixty-Five: Healthy and Very Much Alive*. American Health Foundation, 1986.

This book, written in plain English by a doctor, describes the physical effects of normal aging. This light and informative book was written at the request of members of classes taught by the author.

Wishard, William, and Laurie Wishard. *60 Plus in California: Making the Most of Benefits and Services for Seniors*. Cragmont Publications, 1981.

The book includes detailed information about social security, retirement benefits, disability benefits, Medicare and Medi-Cal, supportive services in the home, alternative living situations, legal problems and solutions, housing, taxes, consumer protection, community benefits and programs, and much more. Written specifically for the California elderly, the book is thoroughly researched and is available in paperback.

4. Fiction

Albom, Mitch. *Tuesdays with Morrie: An Old Man, a Young Man, and Life's Greatest Lesson*. Doubleday, 1997.

Berry, Wendell. *The Memory of Old Jack*. 1st ed. Counterpoint Books, 1999.

Laurence, Margaret. *The Stone Angel*. Reprint ed. University of Chicago Press, 1997.

Moore, Brian. *Lonely Passion of Judith Hearne*. McClelland and Stewart, 1997.

Sarton, May. *As We Are Now*. Reissue ed. W. W. Norton and Company, 1992.

APPENDIX F

JUDICIAL COUNCIL CONSERVATORSHIP FORMS

1. Judicial Council Forms

The Judicial Council of California has adopted standard legal forms that should be used in all conservatorships. You are probably already familiar with some of them. You were named in a Petition for Appointment of Probate Conservator. This means that you were probably also a petitioner, who prepared, or whose lawyer prepared, the petition that you signed. If you did not petition for your appointment as conservator, you signed a statement attached to the petition of someone else in which you consented to be appointed. The judge signed an order appointing you as conservator. The petition and several of the supporting documents attached to it, and the court's order, were prepared using Judicial Council forms.

As conservator, you will use additional Judicial Council forms for your Inventory and Appraisal and, if necessary, to notify the court of your conservatee's change of address or telephone number. Financial and other institutions will use Judicial Council forms to advise the court that accounts under their control have been changed or newly opened to reflect the conservatorship. There are other examples as well.

This appendix contains copies of some of the Judicial Council forms that you may need to use following your appointment. Most of them are **mandatory**. This means that you must use them whenever they apply. Other forms are not mandatory, but you may use them if you choose. You can tell whether or not a form is mandatory by looking at the lower left corner of the form, below the horizontal line. Every mandatory form will state in its lower left corner that it is mandatory as of a certain date, or that it was "adopted for mandatory use." Nonmandatory forms will say that they were "approved by the Judicial Council of California."

The Judicial Council forms in this appendix are current as of the date this handbook was published. However, new forms may be adopted from time to time, and all of them may be revised as needed. You must check to determine whether any new forms that address your situation have been adopted or approved, and that the form you want to use is the latest version. The effective date of each form appears in the form's lower left corner. The court clerk keeps a list of the effective dates of the latest versions of all forms. The next section explains how you may obtain the latest forms.

2. Obtaining Judicial Council Forms

Your lawyer will provide the Judicial Council forms you need. He or she gets them from the court clerk, from the Internet in the manner described in this appendix, or from a computer program form subscription service.

If you aren't represented by a lawyer, you may obtain originals of all Judicial Council forms from the court clerk. You may photocopy original forms purchased in this way and use the copies. Judicial Council forms are also available on the Internet. If you have access to a computer connected to the Internet, you can get the latest forms by going to the California courts' Web site at www.courtinfo.ca.gov/forms. To locate a particular conservatorship form, select the "Probate—Guardianships and Conservatorships" form group or, for forms identified below with an "MC," the "Miscellaneous" form group, and scroll down to the form you need. You can print the blank form and fill it out by typewriter. The forms on the Web site presently cannot be filled in online, but in the future this feature may become available. Mandatory forms are identified in the scroll-down lists by an asterisk.

Judicial Council forms are also available from several publishers in print or in electronic formats. Information about publishers is available at the California Court's Web site. The Judicial Council neither endorses the publisher's products nor represents that their forms are accurate.

3. Conservatorship Forms

Judicial Council forms for use in conservatorships following appointment of a conservator are listed here. Copies of each of these forms in effect as of July 1, 2002, are attached to this appendix.

CONSERVATORSHIP FORMS

| Form | Description |
|--------|--|
| GC-020 | <i>Notice of Hearing—Guardianship or Conservatorship</i> |
| GC-040 | <i>Inventory and Appraisal</i> |
| GC-041 | <i>Inventory and Appraisal Attachment</i> |
| GC-050 | <i>Notice of Taking Possession or Control of an Asset of Minor or Conservatee</i> |
| GC-051 | <i>Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe Deposit Box</i> |
| GC-060 | <i>Report of Sale and Petition for Order Confirming Sale of Real Property</i> |
| GC-065 | <i>Order Confirming Sale of Real Property</i> |
| GC-070 | <i>Ex Parte Petition for Authority to Sell Securities and Order</i> |
| GC-075 | <i>Ex Parte Petition for Approval of Sale of Personal Property and Order</i> |
| GC-080 | <i>Change of Residence Notice</i> |
| GC-085 | <i>Petition to Fix Residence Outside the State of California</i> |
| GC-090 | <i>Order Fixing Residence Outside the State of California</i> |
| GC-150 | <i>Letters of Temporary Guardianship or Conservatorship</i> |
| GC-320 | <i>Citation for Conservatorship and Proof of Service</i> |
| GC-348 | <i>Duties of Conservator and Acknowledgment of Receipt of Handbook</i> |
| GC-350 | <i>Letters of Conservatorship</i> |
| GC-380 | <i>Petition for Exclusive Authority to Give Consent for Medical Treatment</i> |
| GC-385 | <i>Order Authorizing Conservator to Give Consent for Medical Treatment</i> |
| MC-355 | <i>Order to Deposit Money into Blocked Account</i> |
| MC-356 | <i>Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account</i> |
| MC-357 | <i>Petition for Withdrawal of Funds from Blocked Account</i> |
| MC-358 | <i>Order for Withdrawal of Funds from Blocked Account</i> |
| MC-025 | <i>Attachment [to be attached to any form]</i> |

| | | |
|--|-------------------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address)</i> : ATTORNEY FOR <i>(Name)</i> : SUPERIOR COURT OF CALIFORNIA, COUNTY OF MAILING ADDRESS: STREET ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF <i>(Name)</i> : <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div> | | |
| NOTICE OF HEARING | | |
| | | CASE NUMBER: |

This notice is required by law. This notice does not require you to appear in court, but you may attend the hearing if you wish.

1. NOTICE is given that *(name)*:
(representative capacity, if any):
 has filed *(specify)*:

2. You may refer to the filed documents for further particulars. *(All of the case documents filed with the court are available for examination in the case file kept by the court clerk.)*

3. The petition includes an application for the independent exercise of powers under of the Probate Code section 2590. Powers requested are ☐ specified below ☐ specified in Attachment 3.

4. A HEARING on the matter will be held as follows:

| | | | |
|----------|-------|---------------------------------|--------------------------------|
| a. Date: | Time: | <input type="checkbox"/> Dept.: | <input type="checkbox"/> Room: |
|----------|-------|---------------------------------|--------------------------------|

 b. Address of court ☐ same as noted above ☐ is *(specify)*:

(Continued on reverse)

| | | |
|--|--------------------------------------|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): _____ ATTORNEY FOR (<i>Name</i>): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | TELEPHONE AND FAX NOS.: _____ | FOR COURT USE ONLY |
| ESTATE OF (<i>Name</i>): <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | | CASE NUMBER: _____ Date of Death of Decedent or of Appointment of Guardian or Conservator: _____ |
| <div style="text-align: center; border-bottom: 1px solid black; margin-bottom: 10px;"> INVENTORY AND APPRAISAL </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Partial No.: <input type="checkbox"/> Final <input type="checkbox"/> Supplemental </div> <div style="width: 45%;"> <input type="checkbox"/> Corrected <input type="checkbox"/> Reappraisal for Sale <input type="checkbox"/> Property Tax Certificate </div> </div> | | |

APPRAISALS

1. Total appraisal by representative, guardian, or conservator (Attachment 1): \$
2. Total appraisal by referee (Attachment 2): \$
- TOTAL: \$**

DECLARATION OF REPRESENTATIVE, GUARDIAN, CONSERVATOR, OR SMALL ESTATE CLAIMANT

3. Attachments 1 and 2 together with all prior inventories filed contain a true statement of
☐ all ☐ a portion of the estate that has come to my knowledge or possession, including particularly all money and all just claims the estate has against me. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 1.
4. ☐ No probate referee is required ☐ by order of the court dated (*specify*):
5. **Property tax certificate.** I certify that the requirements of Revenue and Taxation Code section 480
- a. ☐ are not applicable because the decedent owned no real property in California at the time of death.
- b. ☐ have been satisfied by the filing of a change of ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of death.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME; INCLUDE TITLE IF CORPORATE OFFICER)

 (SIGNATURE)

STATEMENT ABOUT THE BOND

(*Complete if required by local court rule*)

6. ☐ Bond is waived, or the sole fiduciary is a corporate fiduciary or an exempt government agency.
7. ☐ Bond filed in the amount of: \$ ☐ Sufficient ☐ Insufficient
8. ☐ Receipts for: \$ have been filed with the court for deposits in a blocked account at (*specify institution and location*):

Date:

(TYPE OR PRINT NAME)

 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

(Continued on reverse)

| | |
|---|--------------|
| ESTATE OF (Name): <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | CASE NUMBER: |
|---|--------------|

DECLARATION OF PROBATE REFEREE

9. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 2.
10. A true account of my commission and expenses actually and necessarily incurred pursuant to my appointment is

Statutory commission: \$

Expenses (*specify*): \$

TOTAL: \$

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

| | | |
|-------------------------------|--|---------------------------------|
| (TYPE OR PRINT NAME) | | _____ (SIGNATURE OF REFEREE) |
|-------------------------------|--|---------------------------------|

INSTRUCTIONS

(See Probate Code sections 2610-2616, 8801, 8804, 8852, 8905, 8960, 8961, and 8963 for additional instructions.)

1. See Probate Code section 8850 for items to be included in the inventory.
2. If the minor or conservatee is or has been during the guardianship or conservatorship confined in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, mail a copy to the director of the appropriate department in Sacramento (Prob. Code, § 2611).
3. The representative, guardian, conservator, or small estate claimant shall list on Attachment 1 and appraise as of the date of death of the decedent or date of appointment of the guardian or conservator at fair market value moneys, currency, cash items, bank accounts and amounts on deposit with each financial institution (as defined in Probate Code section 40), and the proceeds of life and accident insurance policies and retirement plans payable upon death in lump sum amounts to the estate, except items whose fair market value is, in the opinion of the representative, an amount different from the ostensible value or specified amount.
4. The representative, guardian, conservator, or small estate claimant shall list in Attachment 2 all other assets of the estate which shall be appraised by the referee.
5. If joint tenancy and other assets are listed for appraisal purposes only and not as part of the probate estate, they must be separately listed on additional attachments and their value excluded from the total valuation of Attachments 1 and 2.
6. Each attachment should conform to the format approved by the Judicial Council (see *Inventory and Appraisal Attachment* (form DE-161, GC-041) and Cal. Rules of Court, rule 201).

ESTATE OF (Name):
_____CASE NUMBER:
_____**INVENTORY AND APPRAISAL
ATTACHMENT NO.: _____**

*(In decedents' estates, attachments must conform to Probate
Code section 8850(c) regarding community and separate property.)*

Page: _____ of: _____ total pages.
(Add pages as required.)

| <u>Item No.</u> | <u>Description</u> | <u>Appraised value</u> |
|-----------------|--------------------|------------------------|
| 1. | | \$ |

| | |
|---|----------------------|
| NAME OF INSTITUTION: ADDRESS: CONTACT PERSON: TITLE: _____ TELEPHONE NO: _____ | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (Name): <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div> | NO FILING FEE |
| NOTICE OF TAKING POSSESSION OR CONTROL OF AN ASSET OF MINOR OR CONSERVATEE | CASE NUMBER: |

NOTE TO INSTITUTION

When a guardian or conservator of the estate of a person takes possession or control of an asset of that person held or controlled by an institution, Probate Code section 2890 requires the institution to file a statement with the court having jurisdiction over the guardianship or conservatorship and identified in the Letters of Guardianship or Letters of Conservatorship. The statement must contain the information specified below concerning the institution, the minor or conservatee, and the asset. The statement must be on this form and must be signed by an authorized officer of the institution.

An "institution" is an insurance company, broker, or agent, an investment company, an investment bank, a security broker-dealer, an investment advisor, a financial planner, a financial advisor, or any other person other than a financial institution. Taking possession or control of an asset includes changing title to the asset, withdrawing all or any portion of the asset, or transferring all or any portion of the asset from the institution.

1. Personal information

- a. Minor or conservatee (*name*):
- b. Guardian or conservator of the estate (*name each*):

2. Institution information

- a. Institution (*name and type*):
- b. Address:

3. Asset information

- a. Account, policy, or other identification number:
- b. Type of asset:
- c. Value or, if it is not known, the estimated value of the asset on the date Letters of Guardianship or Conservatorship were issued by the court to the guardian or conservator (*this information must be given to the extent it is routinely provided in statements from the institution to asset owners*):

4. The guardian or conservator presented Letters of Guardianship or Letters of Conservatorship that identify the guardian or conservator as the guardian or conservator of the estate of the person named above in item 1a.

5. I am an officer of the institution identified in this statement, and I am authorized to sign this statement on its behalf.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

| | |
|----------------------|------------------------|
| (TYPE OR PRINT NAME) | (AUTHORIZED SIGNATURE) |
| Title: | Telephone no.: |

| | |
|---|--|
| NAME OF INSTITUTION: ADDRESS: CONTACT PERSON: TITLE: _____ TELEPHONE NO: _____ | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF <i>(Name):</i> <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div> | |
| NO FILING FEE | |
| NOTICE OF OPENING OR CHANGING A GUARDIANSHIP OR CONSERVATORSHIP ACCOUNT OR SAFE DEPOSIT BOX | |
| CASE NUMBER: | |
| <p style="text-align: center;">NOTE TO FINANCIAL INSTITUTION</p> <p>When a guardian or conservator of the estate of a person opens or changes the name on an account or a safe deposit box in a "financial institution" (a bank, a trust, a savings and loan association, a savings bank, an industrial bank, or a credit union), Probate Code section 2892 requires the financial institution to file a statement with the court having jurisdiction over the guardianship or conservatorship and identified in the Letters of Guardianship or Letters of Conservatorship. The statement must contain the information specified below concerning the account or safe deposit box. The statement must be on this form and must be signed by an authorized officer of the financial institution.</p> | |

1. Account or safe deposit box information

- a. Financial institution *(name)*:
 - (1) Branch:
 - (2) Branch address:
 - (3) Branch telephone no.:

- b. Account status *(check one)*:
 - (1) ☐ New account opened on *(date)*: _____ reflecting the guardianship or conservatorship.
 - (i) Account number:
 - (ii) Opening balance:
 - (2) ☐ Existing account changed on *(date)*: _____ to reflect the guardianship or conservatorship.
 - (i) Name on account prior to change *(state each name)*: _____
 - (ii) Account number: Prior to change: _____ After change:
 - (iii) Balance of account immediately after change: \$ _____
- c. Name of person who opened new account or rented safe deposit box, or whose name was added to existing account or safe deposit box *(state each name)*:
- d. New safe deposit box number, or current number after change:
- e. Describe each asset held in a safe deposit box, including any policy or other identification number:

2. The guardian or conservator presented Letters of Guardianship or Letters of Conservatorship that identify the guardian or conservator as guardian or conservator of the estate of the ward or conservatee.
3. I am an officer of the financial institution identified in this statement, and I am authorized to sign this statement on its behalf.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

| | |
|-------------------------------|---------------------------------|
| _____ (TYPE OR PRINT NAME) | _____ (AUTHORIZED SIGNATURE) |
| Title: | Telephone no.: |

| | | |
|--|-------------------------|-----------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| ESTATE OF (Name): <div style="text-align: center;"> <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | | CASE NUMBER: |
| REPORT OF SALE AND PETITION FOR ORDER CONFIRMING SALE OF REAL PROPERTY <input type="checkbox"/> And Sale of Other Property Sold as a Unit | | HEARING DATE: |
| | | DEPT.: TIME: |

1. **Petitioner** (name of each):
 is the ☐ executor ☐ special administrator ☐ purchaser (30 days have passed since the sale—attach declaration)
 ☐ administrator with will annexed ☐ conservator
 ☐ administrator ☐ guardian
 of the estate and **requests a court order** for
 a. confirmation of sale of the estate's interest in the real property described in Attachment 2e.
 b. ☐ confirmation of sale of the estate's interest in other property sold as a unit as described in Attachment 2c.
 c. ☐ approval of commission of (specify): % in the amount of: \$ (see local court rules).
 d. additional bond ☐ is fixed at: \$ ☐ is not required.
2. **Description of property sold**
 a. Interest sold
 ☐ 100% ☐ Undivided (specify): %
 b. ☐ Improved
 ☐ Unimproved
 c. ☐ Real property sold as a unit with other property (describe in Attachment 2c).
 d. Street address and location (specify):

 e. Legal description is affixed as Attachment 2e (attach).
3. **Appraisal**
 a. Date of death of decedent or appointment of conservator or guardian (specify):
 b. Appraised value at above date: \$
 c. Reappraised value within one year prior to the hearing: \$ ☐ Amount includes value of other property sold as a unit. (If more than one year has elapsed from date 3a to the date of the hearing, reappraisal is necessary.)
 d. Appraisal or reappraisal
 ☐ has been filed. ☐ will be filed.
4. **Manner and terms of sale**
 a. Name of purchaser and manner of vesting title (specify):

 b. ☐ Purchaser is ☐ the personal representative ☐ the attorney for the personal representative.
 c. Sale was ☐ private ☐ public on (date):
 d. Amount bid: \$ Deposit: \$
 e. Payment
 ☐ Cash ☐ Credit (see Attachment 4e)
 f. ☐ Other terms of sale (see Attachment 4f)
 g. ☐ Mode of sale specified in will ☐ petitioner requests relief from complying for the reasons stated in Attachment 4g.
 h. ☐ Terms comply with Probate Code section 2542 (guardianships and conservatorships only)

(Continued on reverse)

| | |
|---------------------------|----------------------|
| ESTATE OF (Name): | CASE NUMBER: |
|---------------------------|----------------------|

5. Commission

- a. ☐ Sale without broker
- b. ☐ A written ☐ exclusive ☐ nonexclusive contract for commission was entered into with (name):
- c. ☐ Purchaser was procured by (name):
a licensed real estate broker who is not buying for his or her account.
- d. ☐ Commission is to be divided as follows:

6. Bond

- a. Amount before sale: \$ ☐ none
- b. Additional amount needed: \$ ☐ none
- c. ☐ Proceeds are to be deposited in a blocked account. Receipts will be filed. (Specify institution and location):

7. Notice of sale

- a. ☐ Published ☐ posted as permitted by Probate Code section 10301 (\$5,000 or less)
- b. ☐ Will authorizes sale of the property
- c. ☐ Will directs sale of the property

8. Notice of hearing

- | | |
|---|---|
| <p>a. Specific devisee</p> <p>(1) <input type="checkbox"/> None</p> <p>(2) <input type="checkbox"/> Consent to be filed</p> <p>(3) <input type="checkbox"/> Written notice will be given</p> <p>b. Special notice</p> <p>(1) <input type="checkbox"/> None requested</p> <p>(2) <input type="checkbox"/> Has been or will be waived</p> <p>(3) <input type="checkbox"/> Required written notice will be given</p> | <p>c. Personal representative</p> <p>(1) <input type="checkbox"/> Petitioner (none required)</p> <p>(2) <input type="checkbox"/> Consent to be filed</p> <p>(3) <input type="checkbox"/> Written notice will be given</p> |
|---|---|

9. Reason for sale (need not complete if 7b or 7c checked)

- a. ☐ Necessary to pay
- (1) ☐ debts
- (2) ☐ devises
- (3) ☐ family allowance
- (4) ☐ expenses of administration
- (5) ☐ taxes
- b. ☐ The sale is to the advantage of the estate and in the best interest of the interested persons.

10. Formula for overbids

- a. Original bid: \$ _____
- b. 10% of first \$10,000 of original bid: \$ _____
- c. 5% of (original bid minus \$10,000): \$ _____
- d. Minimum overbid (a + b + c): \$ _____

11. Overbid. Required amount of first overbid (see item 10): \$

12. Petitioner's efforts to obtain the highest and best price reasonably attainable for the property were as follows (specify activities taken to expose the property to the market, e.g., multiple listings, advertising, open houses, etc.):

13. Number of pages attached: _____

Date:

* (Signature of all petitioners also required (Prob. Code, § 1020).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)

.....
(TYPE OR PRINT NAME)



(SIGNATURE OF ATTORNEY *)



(SIGNATURE OF PETITIONER)



(SIGNATURE OF PETITIONER)

| | |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <input type="checkbox"/> RECORDING requested by and return to: ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: ESTATE OF (Name): <div style="text-align: center; margin-top: 10px;"> <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | TELEPHONE AND FAX NOS.: <div style="text-align: center; font-weight: bold; font-size: small;">FOR RECORDER'S USE</div> |
| <div style="text-align: center; font-weight: bold; font-size: small;">ORDER CONFIRMING SALE OF REAL PROPERTY</div> <input type="checkbox"/> And Confirming Sale of Other Property as a Unit | CASE NUMBER: |

1. Hearing date: _____ Time: _____ Dept.: _____ Room: _____

THE COURT FINDS

2. All notices required by law were given and, if required, proof of notice of sale was made.

3. a. ☐ Sale was authorized or directed by the will
 b. ☐ Good reason existed for the sale
 of the property commonly described as (street address or location):

4. The sale was legally made and fairly conducted.

5. The confirmed sale price is not disproportionate to the value of the property.

6. ☐ Private sale: The amount bid is 90% or more of the appraised value of the property as appraised within one year of the date of the hearing.

7. An offer exceeding the amount bid by the statutory percentages
☐ cannot be obtained ☐ was obtained in open court. The offer complies with all applicable law.

8. The personal representative has made reasonable efforts to obtain the highest and best price reasonably attainable for the property.

THE COURT ORDERS

9. The sale of the real property legally described ☐ on reverse ☐ in Attachment 9
☐ and other property sold as a unit described ☐ on reverse ☐ in Attachment 9a
 is confirmed to (name):

 (manner of vesting title):

 for the sale price of: \$ _____ on the following terms (use attachment or reverse if necessary):

10. The personal representative (name):
 is directed to execute and deliver a conveyance of the estate's interest in the property described in item 9
☐ and other property described in item 9 upon receipt of the consideration for the sale.

11. a. ☐ No additional bond is required.
 b. ☐ Personal representative shall give an additional bond for: \$ _____, surety, or otherwise, as provided by law.
 c. ☐ Net sale proceeds shall be deposited by escrow holder in a blocked account to be withdrawn only on court order.
 Receipts shall be filed. (Specify institution and location):

12. a. ☐ No commission is payable.
 b. ☐ A commission from the proceeds of the sale is approved in the amount of: \$ _____
 to be paid as follows (specify):

13. Other (specify; use attachment or reverse if necessary):

Date: _____

14. Number of pages attached: _____

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

15. ☐ Legal description on reverse. (Continued on reverse)

| | |
|---------------------------|----------------------|
| ESTATE OF (Name): | CASE NUMBER: |
|---------------------------|----------------------|

16. ☐ **Legal description** of the ☐ real property ☐ personal property in item 9 (*describe*):

| | |
|--------|--|
| [SEAL] | CLERK'S CERTIFICATE |
| | I certify that the foregoing <i>Order Confirming Sale of Real Property</i> , including any attached description of real or personal property, is a true and correct copy of the original on file in my office. |
| | Date: _____ CLERK, by _____, Deputy |

| | | | |
|---|--|-------------------------|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): | | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| ATTORNEY FOR (Name): | | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | | | |
| ESTATE OF (Name): <div style="text-align: center;"> <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div> | | | |
| EX PARTE PETITION FOR AUTHORITY TO SELL SECURITIES AND ORDER | | | CASE NUMBER: |

1. **Petitioner** (name of each; see footnote¹ before completing):

is the ☐ personal representative ☐ conservator ☐ guardian of the estate and requests a court order authorizing sale of estate securities.

2. a. The estate's securities described on the reverse should be sold for cash at the market price at the time of sale on an established stock or bond exchange, or, if unlisted, the sale will be made for not less than the minimum price stated on the reverse.

b. ☐ Authority is given in decedent's will to sell property; **or**

c. ☐ The sale is necessary to raise cash to pay

- (1) ☐ debts
- (2) ☐ legacies
- (3) ☐ family allowance
- (4) ☐ expenses
- (5) ☐ support of ward
- (6) ☐ other (specify):

d. ☐ The sale is for the advantage, benefit, and best interests of the estate, and those interested in the estate.

e. Other facts pertinent to this petition are as follows:

- (1) ☐ Special notice has not been requested.
- (2) ☐ Waivers of all special notices are presented with this petition.
- (3) ☐ No security to be sold is specifically bequeathed.
- (4) ☐ Other (specify):

Date:

* (Signature of all petitioners also required (Prob. Code, § 1020).)

(SIGNATURE OF ATTORNEY *)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

¹ Each personal representative, guardian, or conservator must sign the petition.

(Continued on reverse)

| | |
|-------------------|--------------|
| ESTATE OF (Name): | CASE NUMBER: |
|-------------------|--------------|

LIST OF SECURITIES

| Number of shares or face value of bonds | Name of security | Name of exchange (when required by local rule) | Recent bid asked (when required by local rule) | Minimum selling price |
|--|------------------|--|---|-----------------------|
|--|------------------|--|---|-----------------------|

ORDER AUTHORIZING SALE OF SECURITIES

THE COURT FINDS the sale is proper.

THE COURT ORDERS

The ☐ personal representative ☐ guardian ☐ conservator is authorized to sell the securities described above upon the terms and conditions specified. Notice of hearing on the petition is dispensed with.

Date:

JUDGE OF THE SUPERIOR COURT
☐ SIGNATURE FOLLOWS LAST ATTACHMENT

- [249]

| | |
|---------------------------|----------------------|
| ESTATE OF (Name): | CASE NUMBER: |
|---------------------------|----------------------|

PROPERTY SOLD

| <u>Date of sale</u> | <u>Name of purchaser</u> | <u>Item sold</u> | <u>Sale price</u> | Appraised value (when required by local rule) |
|---------------------|--------------------------|------------------|-------------------|---|
|---------------------|--------------------------|------------------|-------------------|---|

ORDER APPROVING SALE OF PERSONAL PROPERTY

THE COURT FINDS the sale is proper.

THE COURT ORDERS

The ☐ personal representative ☐ guardian ☐ conservator is authorized to sell the property described above upon the terms and conditions specified. Notice of hearing on the petition is dispensed with.

Date:

JUDGE OF THE SUPERIOR COURT

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

FOR COURT USE ONLY

| | | | |
|--|--|--------------------|--------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): | | FOR COURT USE ONLY | |
| TELEPHONE NO.: FAX NO.: | | | |
| ATTORNEY FOR (Name): | | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF | | | |
| STREET ADDRESS: | | | |
| MAILING ADDRESS: | | | |
| CITY AND ZIP CODE: | | | |
| BRANCH NAME: | | | |
| <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP | | | |
| OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE | | | |
| OF (Name): | | | |
| CHANGE OF RESIDENCE NOTICE | | | CASE NUMBER: |
| | | | |
| | | | |

NOTICE IS GIVEN of the following change of residence of:

1. Name:
New address:
Telephone number:
Other contact number:
2. Name:
New address:
Telephone number:
Other contact number:
3. Name:
New address:
Telephone number:
Other contact number:

NOTE: You must notify the court EVERY time there is a change of residence for the minor or conservatee. You must obtain court permission BEFORE any out-of-state move.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF GUARDIAN OR CONSERVATOR)

| | |
|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i> TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR <i>(Name):</i> _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____ | |
| <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF <i>(Name):</i> _____ | |
| PETITION TO FIX RESIDENCE OUTSIDE THE STATE OF CALIFORNIA | CASE NUMBER: _____ HEARING DATE: _____ DEPT.: _____ TIME: _____ |

1. Petitioner *(name)*:
 - a. ☐ is the guardian of ☐ the person ☐ the estate
of *(name)*:
 - b. ☐ is the conservator of ☐ the person ☐ the estate
of *(name)*:

2. Petitioner requests that the court authorize that the residence for the ☐ minor ☐ conservatee be fixed outside the State of California to the following location:
 - a. Physical address:

 - b. Telephone number(s), if known, of the:
 - (1) minor or conservatee *(specify)*:
 - (2) guardian or conservator *(specify)*:

3. The reasons for the out-of-state move are *(specify)*:

- ☐ Continued on Attachment 3.

4. a. (1) ☐ Current visitation or contact orders are in effect that relate to the minor or conservatee. These orders were issued by Court: _____ Case number: _____
 (2) Person(s) affected by order(s) are *(name, address, and telephone number, if known)*: _____

 (3) ☐ These orders were modified on *(date)*: _____ to accommodate this move.
 (4) ☐ There was a hearing pending on *(date)*: _____ to modify the visitation or contact order.
 (5) ☐ The person(s) affected by the visitation or contact order consents to the move.
(Attach copies of all visitation and contact orders, or attach as Attachment 4a an explanation why you cannot provide copies of all such orders.)

- b. ☐ There are no visitation or contact orders.

5. a. ☐ The expected duration of the out-of-state move is more than four months, and the guardianship/conservatorship of the person or its equivalent will be commenced in the place of the new residence.
- b. ☐ The minor or conservatee will be returned to California by *(date)*: _____
and this guardianship/conservatorship shall remain in full force and effect.

6. a. ☐ There is a ☐ guardianship ☐ conservatorship of the ESTATE, and
☐ the guardianship or conservatorship of the estate or its equivalent shall be commenced in the place of the new residence.
☐ the guardianship or conservatorship of the estate shall remain in California.
- b. ☐ There is no estate for the minor or conservatee.

(Continued on reverse)

| | |
|--|--------------------|
| <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (Name): _____ | CASE NUMBER: _____ |
| <input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE | |

7. A request for special notice

- ☐ has not been filed
☐ has been filed, and notice will be given to the following persons (*names and addresses*):

8. ☐ The names, residence addresses, and relationships of the father, mother, spouse, brothers, sisters, grandparents, and children of the **minor**, so far as known to the petitioner, are as follows:

| <u>Relationship and name</u> | <u>Residence address</u> |
|------------------------------|--------------------------|
|------------------------------|--------------------------|

a. Father:

b. Mother:

c. Grandparents:

d. Other (*specify*):

e. ☐ List of names and addresses continued in Attachment 8e.

9. ☐ The names, residence addresses, and relationships of the spouse and all relatives within the second degree of the proposed **conservatee** so far as known to petitioner are:

a. ☐ listed below ☐ listed in Attachment 9a

b. ☐ not known, so relatives under Probate Code section 1821(b)(1)–(4) are ☐ listed below ☐ listed in Attachment 9b

| <u>Relationship and name</u> | <u>Residence address</u> |
|------------------------------|--------------------------|
|------------------------------|--------------------------|

(1)

(2)

Date:



(SIGNATURE OF ATTORNEY *)

* (Signature of all petitioners also required (Prob. Code, § 1020).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:



(SIGNATURE OF PETITIONER)



(SIGNATURE OF PETITIONER)

CONSENT TO OUT-OF-STATE MOVE

I consent to the request to fix the residence of the minor or conservatee outside the State of California and waive notice of the hearing on this petition.

Date:



(SIGNATURE)

Date:



(SIGNATURE)

Date:



(SIGNATURE)

☐ Additional signatures on attachment.

Minor must be 12 years of age to consent.

| | |
|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____ | |
| <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____ | |
| ORDER FIXING RESIDENCE OUTSIDE THE STATE OF CALIFORNIA | CASE NUMBER: _____ HEARING DATE: _____ DEPT.: _____ TIME: _____ |

1. The petition to fix the residence of the

- ☐ minor (name): _____
☐ conservatee (name): _____

came on for hearing as follows:

- a. Judge (name): _____
 b. Hearing date: _____ Time: _____ ☐ Dept.: _____ ☐ Div.: _____ ☐ Room: _____
 c. The following persons were present at the hearing:
 (1) ☐ Petitioner (name): _____
 (2) ☐ Attorney for Petitioner (name): _____
 (3) ☐ Attorney for minor (name): _____
 (4) ☐ Attorney for conservatee (name): _____
 (5) ☐ Other (name): _____

THE COURT FINDS

2. a. All notices required by law have been given.
 b. ☐ Notice of hearing to the following persons ☐ has been ☐ should be dispensed with (names): _____
 c. ☐ Fixing the residence of the ☐ minor (name): _____
 ☐ conservatee (name): _____
 outside of the State of California is appropriate and in the best interests of that individual.
 d. ☐ Other (specify): _____

THE COURT ORDERS

3. a. The residence of the ☐ minor (name): _____
 ☐ conservatee (name): _____
 shall be (address): _____
 b. (1) ☐ The guardianship or conservatorship of the ☐ PERSON ☐ ESTATE or its equivalent shall be
 commenced in the state of new residence ☐ within four months of the date of this order
 ☐ no later than (date): _____
 (2) ☐ The guardianship or conservatorship of the PERSON shall remain in California and the minor or conservatee shall be
 returned to California no later than (date): _____
 (3) ☐ The guardianship or conservatorship of the ESTATE shall remain in California.
 c. ☐ Notice of hearing to the persons named in item 2b is dispensed with.
 d. ☐ Other (specify; use attachment or reverse if necessary): _____

Date: _____

4. Number of pages attached: _____

 JUDGE OF THE SUPERIOR COURT
☐ SIGNATURE FOLLOWS LAST ATTACHMENT

| | | |
|--|-------------------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): _____ ATTORNEY FOR (<i>Name</i>): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| TEMPORARY <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP OF (<i>Name</i>): <div style="text-align: right;"><input type="checkbox"/> MINOR <input type="checkbox"/> CONSERVATEE</div> | | CASE NUMBER: |
| LETTERS OF TEMPORARY <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Person <input type="checkbox"/> Estate </div> | | |

LETTERS

1. (*Name*):
 is appointed temporary ☐ guardian
☐ conservator of the ☐ person
☐ estate of (*name*):
2. ☐ Other powers have been granted or restrictions imposed on the temporary
☐ guardian ☐ conservator as
☐ specified below ☐ specified in Attachment 2.
3. These *Letters* shall expire
 - a. ☐ on (*date*):
 or upon earlier issuance of *Letters* to a general guardian or conservator.
 - b. ☐ other date (*specify*):
4. ☐ The temporary ☐ guardian ☐ conservator is not authorized to take possession of money or any other property without a specific court order.
5. Number of pages attached: _____

WITNESS, clerk of the court, with seal of the court affixed.

| | |
|--------|---|
| (SEAL) | Date: Clerk, by _____ (DEPUTY) |
|--------|---|

AFFIRMATION
 I solemnly affirm that I will perform the duties of temporary
☐ guardian ☐ conservator according to law.

 Executed on (*date*):

 at (*place*): _____, California.


(SIGNATURE OF APPOINTEE)

CERTIFICATION
 I certify that this document and any attachments is a correct copy of the original on file in my office, and that the *Letters* issued to the person appointed above have not been revoked, annulled, or set aside and are still in full force and effect.

WITNESS, clerk of the court, with seal of the court affixed.

| | |
|--------|---|
| (SEAL) | Date: Clerk, by _____ (DEPUTY) |
|--------|---|

| | |
|--|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <div style="text-align: right;">PROPOSED CONSERVATEE</div> | |
| <div style="text-align: center;"> CITATION FOR CONSERVATORSHIP <input type="checkbox"/> Limited Conservatorship </div> | |
| CASE NUMBER: | |

THE PEOPLE OF THE STATE OF CALIFORNIA,

To (name):

1. You are hereby cited and required to appear at a hearing in this court

| | | | |
|----------|-------|---------------------------------|--------------------------------|
| a. Date: | Time: | <input type="checkbox"/> Dept.: | <input type="checkbox"/> Room: |
|----------|-------|---------------------------------|--------------------------------|

- b. Address of court ☐ same as noted above ☐ is:

and to give any legal reason why, according to the verified petition filed with this court, you should not be found to be
☐ unable to provide for your personal needs ☐ unable to manage your financial resources and by reason thereof,
 why the following person should not be appointed ☐ conservator ☐ limited conservator of your ☐ person
☐ estate (name):

2. A conservatorship of the person may be created for a person who is unable properly to provide for his or her personal needs for physical health, food, clothing or shelter. A conservatorship of the property (estate) may be created for a person who is unable to resist fraud or undue influence, or who is substantially unable to manage his or her own financial resources. "Substantial inability" may not be proved solely by isolated incidents of negligence or improvidence.
3. At the hearing a conservator may be appointed for your ☐ person ☐ estate. The appointment may affect or transfer to the conservator your right to contract, to manage and control your property, to give informed consent for medical treatment, to fix your place of residence, and to marry. You may also be disqualified from voting if you are found to be incapable of completing an affidavit of voter registration. The judge or the court investigator will explain to you the nature, purpose, and effect of the proceedings and answer questions concerning the explanation.
4. You have the right to appear at the hearing and oppose the petition. You have the right to hire an attorney of your choice to represent you. The court will appoint an attorney to represent you if you are unable to retain one. You must pay the cost of that attorney if you are able. You have the right to a jury trial if you wish.
5. (For limited conservatorship only) You have the right to oppose the petition in part by objecting to any or all of the requested duties or powers of the limited conservator.

Date:

(SEAL)

Clerk, by _____, Deputy

(Proof of service on reverse)

CONSERVATORSHIP OF (Name):

CASE NUMBER:

PROPOSED CONSERVATEE

**PROOF OF SERVICE
(Citation for Conservatorship)**

1. At the time of service I was at least 18 years of age and not a party to this proceeding, and **I served copies** of the citation and petition as follows:
2. a. Person cited (name):
b. Person served: ☐ person in item 2a ☐ other (specify name and title or relationship to the person named in item 2a):

c. Address (specify):

3. I served the person named in item 2
a. ☐ **by personally delivering** the copies (1) on (date): (2) at (time):
b. ☐ **by leaving** the copies with or in the presence of (name and title or relationship to person indicated in item 2b):

(1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
(2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.
(3) on (date): (4) at (time):
(5) ☐ A **declaration of diligence** is attached. (Substituted service on natural person, minor, conservatee, or candidate.)
c. ☐ **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,
(1) on (date): (2) from (city):
(3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed form.)
(4) ☐ to an address outside California with return receipt requested. (Attach completed form.)
d. ☐ **by causing copies to be mailed.** A declaration of mailing is attached.
e. ☐ **other** (specify other manner of service and authorizing code section):

4. a. **Person serving** (name, address, and telephone number): b. **Fee** for service: \$
c. ☐ Not a registered California process server.
d. ☐ Exempt from registration under Business & Professions Code section 22350(b).
e. ☐ Registered California process server.
(1) ☐ Employee or independent contractor
(2) Registration No. (specify):
(3) County (specify):
(4) Expiration (date):

5. ☐ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
6. ☐ **I am a California sheriff or marshal** and I certify that the foregoing is true and correct.

Date:



(SIGNATURE)

| | |
|---|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____ | |
| CONSERVATORSHIP OF (Name): _____ <div style="text-align: right;">CONSERVATEE</div> | |
| <div style="text-align: center;"> DUTIES OF CONSERVATOR and Acknowledgment of Receipt of Handbook </div> | CASE NUMBER: _____ |

DUTIES OF CONSERVATOR

When you are appointed by the court as a conservator, you become responsible to the court and assume certain duties and obligations. All of your actions as conservator are subject to review by the court. An attorney is best qualified to advise you about these matters. You should clearly understand the information on this form. You will find additional information in the **Judicial Council Handbook for Conservators**, which you are required by law to possess.

I. THE CONSERVATEE'S RIGHTS

A conservatee does not lose all rights or all voice in important decisions affecting his or her way of life. All conservatees have the right to be treated with understanding and respect, the right to have their wishes considered, and the right to be well cared for by you. A conservatee generally keeps the right to (1) control his or her own salary, (2) make or change a will, (3) marry, (4) receive personal mail, (5) be represented by a lawyer, (6) ask a judge to change conservators, (7) ask a judge to end the conservatorship, (8) vote, unless a judge decides the conservatee is not capable of exercising this right, (9) control personal spending money, if a judge has authorized an allowance, and (10) make his or her own medical decisions, unless a judge has taken away that right and given it to you. Ask your attorney what rights the conservatee does not have and consult your attorney when you are in doubt.

II. CONSERVATOR OF THE PERSON

If the court appoints you as conservator of the person, you will arrange for the conservatee's care and protection, decide where the conservatee will live, and make arrangements for the conservatee's health care, meals, clothing, personal care, housekeeping, transportation, and recreation.

1. ASSESS THE CONSERVATEE'S NEEDS

You must assess the conservatee's needs and decide how to meet them.

2. DECIDE WHERE THE CONSERVATEE WILL LIVE

You may decide where the conservatee will live, but you must choose the "least restrictive," appropriate living situation that is safe and comfortable and allows the conservatee as much independence as possible. You must not move the conservatee from the state or place the conservatee involuntarily in a mental health treatment facility without permission of the court. You must notify the court of each change of the conservatee's address and your address. If you are authorized to place the conservatee in a secure facility because of dementia, you must be sure that the placement is appropriate, meets all special needs, and is the least restrictive.

3. PROVIDE MEDICAL CARE TO THE CONSERVATEE

You are responsible for ensuring that the conservatee's health needs are met. You may not, however, give or withhold consent for medical treatment over the conservatee's objection **unless** the court has given you exclusive authority to consent because the conservatee has lost the ability to make sound medical choices. If you have the authority to approve the use of psychotropic medications to treat dementia and the behaviors associated with it, you should be sure that other, less intrusive treatment options are explored first.

II. CONSERVATOR OF THE PERSON (*continued*)

4. WORK WITH THE CONSERVATOR OF THE ESTATE

If someone else is handling the conservatee's assets, the two of you must work together to be sure the conservatee can afford the care you arrange. Purchases you make for the conservatee must be approved by the conservator of the estate or you may not be reimbursed.

5. CONSULT YOUR ATTORNEY AND OTHER RESOURCES

Your attorney will advise you on your duties, the limits of your authority, the rights of the conservatee, and your dealings with the court. If you have legal questions, check with your attorney, not the court staff. Other questions may be answered better and less expensively by calling on local community resources. (To find these resources, see the *Handbook for Conservators* and the local supplement distributed by the court.)

III. CONSERVATOR OF THE ESTATE

If the court appoints you as conservator of the estate, you will manage the conservatee's finances, protect the conservatee's income and assets, make an inventory of the conservatorship estate's assets, develop a working plan to ensure that the conservatee's needs are met, make sure the conservatee's bills are paid, invest the conservatee's money, see that the conservatee is receiving all the income and benefits he or she is entitled to, ensure that tax returns are filed on time, keep accurate financial records, and regularly report your financial accounts to the court. (Note: The assets and finances of the conservatee are known as "the estate.")

1. MANAGING THE ESTATE'S ASSETS

a. Prudent investments

You must manage the estate assets with the care of a prudent person dealing with someone else's property. This means you must be cautious and you may not make any speculative investments.

b. Keep estate assets separate from anyone else's

You must keep the money and property in this estate separate from anyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is a *conservatorship* account and not your personal account. Never deposit estate funds in your personal account or otherwise mix them with your or anyone else's property, even for brief periods. Securities in the estate must be held in a name that shows they are estate property and not your personal property.

c. Interest-bearing accounts and other investments

Except for checking accounts intended for ordinary administration expenses, estate accounts must earn interest. You may deposit estate funds in insured accounts in financial institutions, but you should not put more than \$100,000 in one institution. Consult with an attorney before making other kinds of investments.

d. Other restrictions

There are many other restrictions on your authority to deal with estate assets. Without prior order of the court, you may not pay fees to yourself or to your attorney, make a gift of estate assets, or borrow from the estate. If you do not obtain the court's permission when it is required, you may be removed as conservator or you may be required to reimburse the estate from your own personal funds, or both. You should consult with an attorney concerning the legal requirements affecting sales, leases, mortgages, and investments of estate property.

2. INVENTORY OF ESTATE PROPERTY

a. Locate the estate's property

You must locate, take possession of, and protect all the conservatee's income and assets that will be administered in the estate. You should change the ownership of most assets of the conservatorship into the conservatorship estate's name. For real estate, you must record a copy of your *Letters of Conservatorship* with the county recorder in each county where the conservatee owns real property.

b. Determine the value of the property

You must arrange to have a court-appointed referee determine the value of the property unless the appointment is waived by the court. You, rather than the referee, must determine the value of certain "cash items." An attorney can advise you about how to do this.

c. File an inventory and appraisal

Within 90 days after your appointment as conservator, you must file with the court an inventory and appraisal of all the assets in the estate.

| | |
|------------------------------------|----------------------|
| CONSERVATORSHIP OF (Name): | CASE NUMBER: |
| CONSERVATEE | |

III. CONSERVATOR OF THE ESTATE (*continued*)

3. INSURANCE

You should determine that there is appropriate and adequate insurance covering the assets and risks of the estate. Maintain the insurance in force during the entire period of the administration (except for assets after they are sold).

4. RECORD KEEPING

a. Keep an accounting

You must keep complete and accurate records of each financial transaction affecting the estate. The checkbook for the conservatorship checking account is your indispensable tool for keeping records of income and expenditures. You will have to prepare an accounting of all money and property you have received, what you have spent, the date of each transaction, and its purpose. You must describe in detail what you have left after you pay the estate's expenses.

b. Court review of your records

You must file a petition requesting that the court review and approve your accounting one year after your appointment and at least every two years after that. Save your receipts because the court may ask to review them also. If you do not file your accountings as required, the court will order you to do so. You may be removed as conservator if you fail to comply.

5. CONSULTING AN ATTORNEY

Your attorney will advise you and help prepare your inventories, accountings, and petitions to the court. If you have questions, check with your attorney, not the court staff. You should cooperate with your attorney at all times. **When in doubt, contact your attorney.**

IV. DUTY TO DISCLOSE

If you are the spouse of the conservatee, you must disclose to the court the filing of any action or proceeding against the conservatee for (1) legal separation, (2) dissolution of marriage, (3) annulment, or (4) adjudication of nullity of marriage. The disclosure must be made within 10 days of the initial filing of the action or proceeding by filing a notice with the court and serving notice according the Probate Code.

V. LIMITED CONSERVATOR (for the developmentally disabled only)

1. AUTHORITY SPECIFIED IN YOUR LETTERS

If the court appoints you as limited conservator, you will have authority to take care of **only** those aspects of the conservatee's life and financial affairs specified in your *Letters of Conservatorship* and the court's order appointing you. The conservatee retains all other legal and civil rights. Although most of the information provided in this form also applies to limited conservatorships (especially the duties of the conservator of the person), you should clarify with your attorney exactly which information applies in your case.

2. DUTY TO HELP CONSERVATEE DEVELOP SELF-RELIANCE

You must secure treatment, services, and opportunities that will assist the limited conservatee to develop maximum self-reliance and independence. This assistance may include training, education, medical and psychological services, social opportunities, vocational opportunities, and other appropriate help.

VI. TEMPORARY CONSERVATOR

If the court appoints you as temporary conservator, you will generally have the same duties and authority as general conservators **except** the conservatorship will end on the date specified in your *Letters of Temporary Conservatorship*. Most of the information in this form also applies to temporary conservatorships, but you must consult your attorney about which duties you will **not** perform because of the limited time. A temporary conservator should avoid making long-term decisions or changes that could safely wait until a general conservator is appointed. As temporary conservator, you may not move a conservatee from his or her home or sell or give away the conservatee's home or any other assets without court approval.

Sign the *Acknowledgment of Receipt* on page four.

CONSERVATORSHIP OF (Name):

CASE NUMBER:

CONSERVATEE

ACKNOWLEDGMENT OF RECEIPT
of Duties of Conservator and Handbook for Conservators
(Probate Code, § 1834)

1. I have petitioned the court to be appointed as conservator.
2. I acknowledge that I have received this statement of the duties and liabilities of the office of conservator (*Duties of Conservator* form) and the *Handbook for Conservators* adopted by the Judicial Council.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PETITIONER)

NOTICE

This statement of duties and liabilities is a summary and is not a complete statement of the law. Your conduct as a conservator is governed by the law itself and not by this summary or by the Judicial Council *Handbook for Conservators*. When in doubt, consult your attorney.

| | |
|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <input type="checkbox"/> IF RECORDED RETURN TO: ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: CONSERVATORSHIP OF (Name): <div style="text-align: right;">CONSERVATEE</div> | TELEPHONE AND FAX NOS.: FOR RECORDER'S USE ONLY |
| <div style="text-align: center;">LETTERS OF CONSERVATORSHIP</div> <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Limited Conservatorship | CASE NUMBER: |
| 1. <input type="checkbox"/> (Name): _____ is the appointed <input type="checkbox"/> conservator <input type="checkbox"/> limited conservator of the <input type="checkbox"/> person <input type="checkbox"/> estate of (name): _____ 2. <input type="checkbox"/> (For conservatorship that was on December 31, 1980, a guardianship of an adult or of the person of a married minor) (Name): _____ was appointed the guardian of the <input type="checkbox"/> person <input type="checkbox"/> estate by order dated (specify): _____ and is now the conservator of the <input type="checkbox"/> person <input type="checkbox"/> estate of (name): _____ 3. <input type="checkbox"/> Other powers have been granted or conditions imposed as follows: a. <input type="checkbox"/> Exclusive authority to give consent for and to require the conservatee to receive medical treatment that the conservator in good faith based on medical advice determines to be necessary even if the conservatee objects, subject to the limitations stated in Probate Code section 2356. (1) <input type="checkbox"/> This treatment shall be performed by an accredited practitioner of the religion whose tenets and practices call for reliance on prayer alone for healing of which the conservatee was an adherent prior to the establishment of the conservatorship. (2) <input type="checkbox"/> (If court order limits duration) This medical authority terminates on (date): _____ b. <input type="checkbox"/> Authority to place conservatee in a care or nursing facility described in Probate Code section 2356.5(b). c. <input type="checkbox"/> Authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c). d. <input type="checkbox"/> Powers to be exercised independently under Probate Code section 2590 as specified in Attachment 3d (specify powers, restrictions, conditions, and limitations). e. <input type="checkbox"/> Conditions relating to the care and custody of the property under Probate Code section 2402 as specified in Attach- ment 3e. f. <input type="checkbox"/> Conditions relating to the care, treatment, education, and welfare of the conservatee under Probate Code section 2358 as specified in Attachment 3f. g. <input type="checkbox"/> (For limited conservatorship only) Powers of the limited conservator of the person under Probate Code section 2351.5 as specified in Attachment 3g. h. <input type="checkbox"/> (For limited conservatorship only) Powers of the limited conservator of the estate under Probate Code section 1830(b) as specified in Attachment 3h. i. <input type="checkbox"/> Other (specify): _____ | FOR COURT USE ONLY |

(SEAL)

4. ☐ The conservator is **not** authorized to take possession of money or any other property without a
 specific court order.
 5. Number of pages attached: _____

 WITNESS, clerk of the court, with seal of the court affixed.

 Date: _____

Clerk, by _____, Deputy
 (Continued on reverse)

This form may be recorded as notice of the establishment of a conservatorship of the estate as provided in Probate Code section 1875.

CONSERVATORSHIP OF *(Name)*:

CASE NUMBER:

CONSERVATEE

LETTERS OF CONSERVATORSHIP

AFFIRMATION

I solemnly affirm that I will perform according to law the duties of ☐ conservator ☐ limited conservator.

Executed on *(date)*: _____, at *(place)*: _____



(SIGNATURE OF APPOINTEE)

CERTIFICATION

I certify that this document and any attachments is a correct copy of the original on file in my office, and that the letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

Date:

Clerk, by _____, Deputy

(SEAL)

- (Continued on reverse)

| | |
|--|--|
| CONSERVATORSHIP OF (Name): <div style="border-bottom: 1px solid black; height: 20px; width: 100%;"></div> | CASE NUMBER: <div style="border-bottom: 1px solid black; height: 20px; width: 100%;"></div> |
| CONSERVATEE | |

5. ATTENDANCE AT THE HEARING **Conservatee**

- a. ☐ will attend the hearing.
- b. ☐ is able but unwilling to attend the hearing AND ☐ does ☐ does not wish to contest this petition.
- c. ☐ is unable to attend the hearing because of medical inability. An affidavit or certificate of a licensed medical practitioner or an accredited religious practitioner is affixed as Attachment 5c.
- d. ☐ is not the petitioner, is out of state, and will not attend the hearing.

6. **Special notice** ☐ has ☐ has not been requested. (Specify the names and addresses of persons requesting special notice in Attachment 6.)

7. ☐ Filed with this petition is a proposed *Order Appointing Court Investigator* (form GC-330) that specifies the duties to be performed before granting an order relating to medical consent.

8. The names, residence addresses, and relationships of the spouse and all relatives within the second degree of the conservatee so far as known to petitioner are ☐ listed below ☐ listed in Attachment 8.

| | Relationship and name | Residence address |
|------------|-----------------------|-------------------|
| a. Spouse: | | |
| b. | | |

9. Number of pages attached: _____

Date:

*(Signature of all petitioners also required (Prob. Code, § 1020).)



(SIGNATURE OF ATTORNEY *)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

.....
(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)

.....
(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)

| | | |
|--|-------------------------|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | TELEPHONE AND FAX NOS.: | FOR COURT USE ONLY |
| CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <div style="text-align: right;">CONSERVATEE</div> | | CASE NUMBER: |
| ORDER AUTHORIZING CONSERVATOR TO GIVE CONSENT FOR MEDICAL TREATMENT | | |

1. The petition for authority to give consent for medical treatment came on for hearing as follows (*check items c, d, e, and f to indicate personal presence*):
- a. Judge (name): _____
 - b. Hearing date: _____ Time: _____ ☐ Dept.: _____ ☐ Div.: _____ ☐ Room: _____
 - c. ☐ Petitioner (name): _____
 - d. ☐ Attorney for petitioner (name): _____
 - e. ☐ Attorney for conservatee (name, address, and telephone): _____
 - f. Conservatee was ☐ present ☐ unable to attend ☐ able but unwilling to attend and does not wish to contest the petition ☐ out of state.

THE COURT FINDS

2.
 - a. All notices required by law have been given.
 - b. ☐ There is no form of medical treatment for which the conservatee has the capacity to give informed consent.
 - c. ☐ Conservatee is an adherent of a religion that relies on prayer alone for healing as defined in Probate Code section 2355(b).
 - d. ☐ Attorney (name): _____ has been appointed by the court as legal counsel to represent the conservatee in this proceeding. The cost for representation is: \$ _____
 - e. ☐ Conservatee has dementia as defined in Probate Code section 2356.5, and the court finds all other facts required to make the orders specified in item 4.

THE COURT ORDERS

3.
 - a. ☐ Conservatee lacks the capacity to give informed consent for medical treatment and the conservator of the person is granted the powers specified in Probate Code section 2355.
 - b. ☐ The treatment shall be performed by an accredited practitioner of the religion defined in Probate Code section 2355(b).
 - c. ☐ The order dated: _____ made under Probate Code section 1880 is ☐ revoked ☐ modified ☐ as stated below ☐ as stated in Attachment 3c.
 - d. ☐ For legal services rendered, ☐ conservatee ☐ conservatee's estate shall pay to (name): _____ the sum of: \$ _____ ☐ forthwith ☐ as follows (*specify terms*): _____
 - e. ☐ Other (*specify*): _____
 - f. *Letters of Conservatorship* shall reissue and include a statement that conservator has the powers ordered.
 - g. ☐ This order shall terminate on (date): _____
4.
 - a. ☐ The conservator of the person is granted authority to place conservatee in a care or nursing facility described in Probate Code section 2356.5(b).
 - b. ☐ The conservator of the person is granted authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c).

5. Total boxes checked in items 2-4: _____

6. Number of pages attached: _____

Date: _____

JUDGE OF THE SUPERIOR COURT

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

- Code of Civil Procedure, § 372 ;
Probate Code, § 3600 et seq.;

1. I acknowledge receipt of the *Order to Deposit Money Into Blocked Account*, a copy of which is attached.
2. The account described below in which funds have been deposited under the court's order is a federally insured, blocked account.
3. Name and title on the account:
4. Name of depository:
 - a. Branch:
 - b. Address:
5. Account number:
6. Date account opened:
7. Amount of initial deposit: \$
8. Present balance: \$

Date:

(AUTHORIZED SIGNATURE)

Title: _____

| | |
|------------|--------------|
| CASE NAME: | CASE NUMBER: |
|------------|--------------|

6. e. Previous withdrawals from this account (*select one*):

- (1) ☐ None.
(2) ☐ As follows:
(a) Amount: \$
(b) Date:
(c) Purpose:

- ☐ Additional withdrawals from this account described in Attachment 6e.
☐ Continued (*provide information relating to each additional account from which funds are to be withdrawn on a separate attachment designated as Attachment 6*).

7. Amount of funds to be disbursed under this petition:

- a. ☐ Balance of account or accounts.
b. ☐ Other (*specific total amount to be disbursed*): \$

8. Reasons for disbursement of funds:

- a. ☐ Minor has attained the age of 18 years or older, and this is a final distribution.
b. ☐ Other (*describe*):

9. Payee to whom funds will be distributed:

a. Payee (*name*):

- (1) Address:
(2) Amount: \$
(3) Purpose:

b. Payee (*name*):

- (1) Address:
(2) Amount: \$
(3) Purpose:

c. Payee (*name*):

- (1) Address:
(2) Amount: \$
(3) Purpose:

d. Payee (*name*):

- (1) Address:
(2) Amount: \$
(3) Purpose:

- ☐ Continued (*if there are additional payees, make a list and attach it to this petition as Attachment 9*).

10. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PETITIONER)
☐ SIGNATURE FOLLOWS LAST ATTACHMENT

- [271]

| | |
|----------------------|----------------------|
| SHORT TITLE: | CASE NUMBER: |
|----------------------|----------------------|

| | | |
|----|--|-------------------------|
| 1 | ATTACHMENT (Number): _____ | Page ____ of ____ |
| 2 | (This Attachment may be used with any Judicial Council form.) | (Add pages as required) |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |
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| 26 | | |
| 27 | (If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.) | |

APPENDIX G

GLOSSARY

401(k) plan

A retirement plan, sponsored by an employer, in which an individual employee contributes a portion of his or her salary for investment for retirement. Employers often contribute matching funds to employee 401(k) plans.

Account, accounting, account and report

These terms refer to the duty of a **conservator of the estate** to **file** with the court a detailed report of his or her administration of the **conservatee's estate**. In this handbook, the terms *account* and *account and report* refer to the entire document that must be filed with the court, including a narrative report of the conservatee's current circumstances and the schedules of income and expense and property on hand that show the financial condition of the conservatee's estate. *Account* is also used as a verb, as in "the conservator's duty to *account* to the court." The term *accounting* refers to the schedule portion of the account and report.

Account current

An **account** filed by a **conservator of the estate** that is not the last account filed at the end of the conservator's service or at the end of the conservatorship. See **final account**.

Advance health care directive

An instruction by a patient concerning a health care decision. There are two general types of directives. The first, an *individual health care instruction*, may be oral or in writing. The second, a **power of attorney for health care**, must be in writing and must meet other format and content requirements. A written advance health care directive may include a nomination of the patient's **conservator**.

| | |
|-------------------------|---|
| Aide | A person hired to help someone who needs assistance with dressing, grooming, bathing, shopping, cooking, eating, moving around, washing clothes, or taking medicine. Aides also are referred to as attendants, in-home aides, in-home assistants, caregivers, care providers, companions, companion aides, chore workers, home health aides, homemakers, housekeepers, LVNs, live-ins, and nurse's aides. |
| Allowance | A sum of cash that the court has authorized the conservator to provide to the conservatee periodically, usually monthly. Once the allowance has been paid to the conservatee, the conservator of the estate is no longer responsible for it and does not have to show in an account what the conservatee did with the allowance money. |
| Assessment | An evaluation of a conservatee's needs for care and assistance, performed by a team of professionals with specialties such as health, aging, and social work. The team evaluates the person's short-term and long-term memory and considers the conservatee's ability to make decisions and to carry out daily living activities. |
| Assets | A conservatee's property, including bank accounts, real estate, stocks, bonds, cars, furniture, jewelry, and other personal belongings. |
| Attorney in fact | A person appointed by the principal to act for the principal under a power of attorney . Also called an agent . |
| Beneficiary | A person or organization legally entitled to receive benefits under a legal document such as a will, a trust agreement or declaration of trust, or a life insurance policy. |
| Blocked account | A special kind of bank account often set up in a conservatorship. A withdrawal can't be made from a blocked account unless a court has authorized it. Judges sometimes require a conservator to establish blocked accounts to hold all or part of a conservatee's cash assets. A conservator may also, with the permission of the court, elect to set up a blocked account. This is often done to reduce the size and cost of a bond , as money in a blocked account is not counted in setting the amount of the bond. |

| | |
|--------------------------------------|--|
| Bond | A promise to the court in a conservatorship matter made by a special kind of insurance company, called a surety company , to reimburse a conservatee's estate for losses resulting from intentional wrongdoing or mismanagement by the conservator . The surety company reimburses the estate for such losses up to the amount of the bond and then goes after the conservator's personal assets to recover the amount paid. The judge almost always requires a conservator of the estate to obtain a bond. |
| Care facility | Rest homes, group homes, nursing homes, and convalescent hospitals are care facilities. There are several types of care facilities, each offering a different level of services. The most common care facilities are board-and-care homes , which provide a room, meals, and personal care assistance and supervision, and skilled-nursing facilities , which provide a room, meals, personal hygiene assistance, and round-the-clock nursing services. |
| Case management, case manager | A service, often performed by a gerontologist, social worker, nurse, or another professional, the case manager . This service includes assessing a conservatee's social, mental, emotional, health, and personal care needs; helping a conservator find and arrange services to meet those needs; monitoring the situation to make changes as needed; and working to coordinate the services of various agencies and individuals. |
| Certified copy | <p>A copy of a document filed with a court, to which the court clerk has attached a certificate, a statement saying that the original of the document has been filed with the court and that the copy is a true and correct copy of the original. A certified copy of a document filed with a court is often required by government agencies and others as proof that the original document exists and has been filed.</p> <p>The clerk charges a fee for providing the copy or comparing a copy provided by someone else with the original, completing the certificate, and affixing the court's seal to the copy. The seal is either a crimp seal or is in purple ink so a photocopy of a certified copy can be detected.</p> |
| Commissioner | A judicial officer appointed by the court to perform a variety of functions. Commissioners often conduct hearings, supervise the probate court's staff, and assist judges in conservatorship and other probate proceedings. |

Community property A type of joint and equal ownership of property by married persons in California. The most common type of community property is property acquired with a husband's or a wife's earnings while they are married to each other and are living together in California. However, the term also includes assets that a married couple has agreed are community property. Community property is not *separate property*.

Separate property is property that a person acquired before marriage or that he or she receives as a gift or inheritance during marriage. Separate property also includes property that a married couple has agreed is the separate property of one of them. A married couple can agree to change community property into separate property, and vice versa, but their agreement must be in writing and must satisfy other legal requirements.

Consent, consent to medical treatment

A patient must consent, or agree, that a medical treatment or procedure may be given to or performed on the patient after he or she has been sufficiently informed by qualified persons about the treatment or procedure, including its risks. Doctors and hospitals may ask a patient to sign a consent form to show that a full explanation of a recommended treatment or procedure has been given and that the patient has agreed to the treatment or procedure. A court may decide that a patient who is a **conservatee** does not have the capacity to give an informed consent to a medical treatment or procedure. In that event consent to the treatment or procedure may be given by the patient's **conservator of the person**, and he or she may sign a consent form on behalf of the patient. See **exclusive authority**.

Conservatee

A person whom a judge has decided is unable to care for himself or herself or to manage his or her own financial affairs and for whom a **conservator** has been appointed.

Conservator

A person or organization appointed by a judge to arrange for a **conservatee's** personal care, to manage the conservatee's finances, or both.

Conservator of the estate

A person or organization appointed by a judge to manage the financial affairs of another person (the **conservatee**) whom a judge has decided is unable to do so.

Conservator of the person

A person or organization appointed by a judge to provide for the personal care and protection of another person (the **conservatee**) whom a judge has decided is unable to do so.

Conservatorship estate

A **conservatee's income** and **assets** managed by a **conservator of the estate**.

Conservatorship plan

A formal or informal document that contains a systematic assessment of the conservatee's needs and a plan to meet those needs, based on the conservatee's physical and mental condition at present and for the foreseeable future and the resources available from the conservatee's estate and other available sources to finance the plan.

Court investigator

An investigator employed by the court to assist judges in conservatorship cases. He or she visits and speaks with people involved in a conservatorship, including the proposed **conservatee** and the proposed **conservator**, and reports his or her findings back to the court. Once a conservatorship has been started, the court investigator will visit the conservatee periodically to see how things are going. A court investigator is also sometimes called a *probate investigator*.

Decedent's estate

A type of judicial proceeding in the **probate court** in which the affairs of a person who has died, the **decedent**, are wound up, his or her debts and taxes are paid, and his or her remaining property is distributed to the persons or organizations entitled to it under his or her will, or, if there is no will, as provided by law. Decedent estate proceedings are sometimes called *probate estates* or simply *probates*.

Deferred compensation

A type of retirement plan, in which an employee agrees to defer receipt of a portion of his or her compensation in return for the employer's promise to pay the employee at some time in the future.

Dementia

A mental disorder, usually brought on by a disease or trauma, in which the ability of a person to think, remember, perceive, or understand his or her circumstances is impaired. Alzheimer's disease and vascular dementia are two common types of dementia.

Developmental disability

A condition that begins before age 18, continues indefinitely, and causes a substantial handicap. Mental retardation, cerebral palsy, epilepsy, and autism are developmental disabilities, as are other conditions closely related to or treated like mental retardation. A person who has a physical disability but isn't also mentally disabled isn't developmentally disabled unless the person's handicapping condition is cerebral palsy or another of the conditions listed above.

Disbursement

A payment from the **conservatorship estate**.

Discharge

The court's order formally releasing a **conservator of the estate** from his or her duties and responsibilities and ending his or her liability on the **bond**.

Domestic partner

One of two persons who have chosen to join together in a relationship that meets all of the requirements of Family Code section 297, including the filing of a Declaration of Domestic Partnership with the California Secretary of State. The persons must share a common residence, must be at least 18 years of age, must agree to be jointly responsible for each other's basic living expenses, must not be married or a member of another domestic partnership, and must not be related by blood in a way that would prevent them from being married to each other in California. Persons of opposite sexes may form a domestic partnership if at least one of them is over the age of 62.

Durable power of attorney

A kind of **power of attorney** in which the powers granted to the **attorney in fact** survive the **principal's** incapacity or become effective only upon the principal's incapacity. A durable power of attorney that was created by a **conservatee** before a **conservator** was appointed cannot be revoked by a conservator without prior court approval.

Durable power of attorney for health care

A specific kind of **power of attorney** in which the **principal** authorizes the **attorney in fact** to make health care decisions for the principal. Because it is a **durable power of attorney**, it continues in effect or becomes effective when the principal loses capacity to make a health care decision. It is a type of

advance health care directive subject to strict requirements for format, content, and execution.

Estate

All assets owned by a **conservatee** that a **conservator of the estate** collects, manages, and is responsible for. The estate includes all income and benefits to which the conservatee is entitled, such as social security, public assistance, or a pension. The estate does not include salary or wages paid to a conservatee for his or her personal services, the **community property** of a married conservatee under the management of his or her capable wife or husband, or property held by the **trustee** of a trust.

Exclusive authority

The power a **conservator of the person** may be granted by the court to make health care decisions for the **conservatee** if the court decides that the conservatee has lost the capacity to make his or her own informed health care decisions. If the court has not granted exclusive authority to the conservator, the conservatee can make his or her own health care decisions. In that situation, the conservator can also make the decision. However, the decision of the conservator is not required and is not effective if the conservatee objects to the conservator's decision.

Executor

A person named in a will to carry out the will's directions and requests after the death of the person who signed the will (the *testator*), usually under the supervision of the **probate court** in a **decedent's estate** proceeding. The executor's main responsibilities are collecting and managing the testator's estate, paying his or her debts and death taxes, and distributing the remaining money and other property as directed by the will.

File

To give a document to the court clerk's office to be added to the court's file. The court's file in a conservatorship case contains the court's records of that case. When someone files an original document, he or she usually also provides a copy of it to the clerk. The clerk stamps the copy with a stamp that says "Filed" and the current date and returns it to the person who provided it. The copy, referred to as a **conformed** copy, is evidence that the original document was filed. A conformed copy of a document is often sufficient proof that the original has been filed, but when more formal proof is required, a **certified copy** must be used.

Final account

The last account and report filed by a **conservator of the estate** after his or her administration of the conservatorship

has ended by the **conservatee's** death, by the conservator's voluntary resignation approved by the court, by the conservator's **removal**, or by termination of the conservatorship and restoration of the conservatee's authority to handle his or her own affairs. See **account current**.

**General
conservatorship**

A "regular" **probate conservatorship**, as opposed to a **limited conservatorship** for an adult with **developmental disabilities**.

Guardianship

A California court proceeding in which a judge appoints someone to care for a person under 18 years of age, to manage his or her property, or both. In some states, conservatorship of an adult is called guardianship, but not in California.

Income

Money or property paid to a **conservatorship estate** from any source on a one-time or periodic basis. This includes pension, public assistance, and social security payments; interest on savings accounts, notes, and bonds; and dividends on stock. It does not include salary or wages from the **conservatee's** employment or earnings from any other asset that is not part of the conservatorship estate.

**Individual
Retirement
Account (IRA)**

An account set up by an individual with institutions, including financial institutions such as banks and other kinds of institutions such as stockbrokers, into which money or property is placed for retirement. The money or property is placed in (*contributed to*) the account, the individual gets an income tax deduction for the contribution, and he or she is not required to pay taxes on any income earned by the money or property contributed until it is withdrawn after retirement. The contributions to the IRA or the income earned in the IRA can't be withdrawn from the account before the individual reaches retirement age without severe tax penalties.

**Inventory and
Appraisal**

A list of all the assets owned by a **conservatee** at the time a **conservator** was appointed and an appraisal of their value on that date. The Inventory and Appraisal must be prepared by the **conservator of the estate** and filed with the court no later than 90 days after the conservator's appointment.

**Joint tenancy,
joint tenant**

A form of joint ownership of assets, including bank accounts, stocks, and real estate, by two or more persons, each of whom is called a *joint tenant*. If one joint tenant dies, his or her portion of the property passes automatically to the remaining joint tenants, no matter what his or her will says. This feature is called the *right of survivorship* and is a means of avoiding a **decedent's estate** proceeding to transfer the property following the death of the first joint tenant.

Judicial Council

A state government body, chaired by the Chief Justice of the California Supreme Court, charged with improving the administration of justice in California's courts by performing a number of tasks. Prominent among them are development of the rules of practice and procedure known as the California Rules of Court, and creation and adoption of the official practice forms known as Judicial Council forms.

Keogh plan

A type of retirement plan similar to an **IRA** available to self-employed individuals.

**Lanterman-Petris-
Short conservator-
ship (LPS conser-
vatorship)**

A conservatorship for persons gravely disabled, that is, unable to provide for their basic needs for food, clothing, and shelter, as the result of a mental disorder or chronic alcoholism. The term comes from the name of the 1969 law establishing California's system for involuntary psychiatric treatment of mentally ill persons and their placement in locked psychiatric hospitals. The law is named for the legislators who wrote it and led the fight for its passage. An LPS conservatorship shares some characteristics with a **probate conservatorship**, but there are also many differences. Among the latter is the requirement in LPS conservatorships that the initial **petition** for appointment of an LPS conservator must be filed by a government agency, usually a **public guardian**, although the petition may ask for the appointment of a private citizen.

**Letters of
Conservatorship**

A **Judicial Council** form that identifies an appointed **conservator**, states that the conservator is authorized to act on the **conservatee's** behalf, and indicates that the conservator has **qualified** for the position. Also called *Letters*.

Letters of Temporary Conservatorship

A **Judicial Council** form that identifies an appointed **temporary conservator** and indicates that the temporary conservator has **qualified** for the position, states that the temporary conservator is authorized to act on the conservatee's behalf until the expiration date provided in the document, and identifies any additional powers granted to or restrictions placed on, the temporary conservator. Also called *Temporary Letters*.

Life care

A term referring to personal and health care provided to a person for a period longer than a year under a contract to provide it in exchange for an entrance fee or a monthly fee. Life care contracts are regulated by the Continuing Care Contracts Program of the California Department of Health Services.

Limited conservatorship, limited conservator, limited conservatee

A conservatorship for a **developmentally disabled** adult. The person appointed as conservator in this kind of proceeding is called a limited conservator and the person for whom the limited conservator has been appointed is called the limited conservatee.

Living will

A written **advance health care directive** in which a person gives instructions concerning his or her maintenance by means of artificial life support devices.

Local court rules

A superior court's instructions and requirements. These rules are in addition to state laws passed by the California Legislature and signed by the Governor, called **statutes**, which are sorted by subject matter and bound together in books called **codes**. Local court rules apply only in the superior court that adopted them. There are also rules of court, called the California Rules of Court, adopted by the **Judicial Council** and applicable to all California courts. Local court rules must be consistent with the California Rules of Court, and the California Rules of Court must be consistent with statute.

Nondurable power of attorney

Also called **regular** power of attorney. A kind of **power of attorney** that terminates upon the **principal's** incapacity. A **conservator of the estate** can revoke a nondurable power of attorney created by the **conservatee** without prior court approval.

| | |
|-----------------------------|---|
| Ombudsman | The California Department of Aging sponsors a Long-term Care Ombudsman Program with offices that serve each county. The ombudsman program advocates for the rights of people in long-term care facilities and responds to complaints about abuse . |
| Petition | A formal, written request, filed with a court, asking a judge to make a particular decision. For example, a petition may ask the court to appoint a conservator , to authorize a conservator to sell the conservatee's home, to require a conservatee to have medical treatment, or to settle an account and approve a report of a conservator. The term is also used as a verb, as in, to <i>petition</i> the court for an award of compensation. |
| Petition and report | The narrative portion of an account and report , containing a description of the conservatee's circumstances and any requests made for approval of the court but not including the accounting portion of the account and report. |
| POD account | A Pay on Death, or POD, account is a bank account. This kind of account has a named payee who will be entitled to collect whatever is in the account when the person who established the account dies, but has no rights in the account during that person's life. If a conservatee created the account, the named payee does not own the account or any of the money or other assets in it during the conservatee's lifetime. However, the conservator should not remove the named payee's name or withdraw any money or property from a POD account without the named payee's permission or a court order, because to do so might interfere with the conservatee's intended estate plan. |
| Power of appointment | A right given in a will or in a trust document to a person to designate who will receive some benefit under the will or the trust. |
| Power of attorney | <p>A written document in which a person (the principal) authorizes someone else (the agent or the attorney in fact) to act for the principal. A general power of attorney authorizes the agent to manage all of the principal's affairs. A limited power of attorney is more restrictive, for example, by setting a time limit before it expires, by limiting the agent to particular actions, or by authorizing the agent to manage only particular assets.</p> <p>There are durable and regular, or nondurable, powers of attorney. A nondurable power of attorney ends when the principal</p> |

becomes legally incapacitated, or unable to handle his or her own affairs. A durable power of attorney stays in effect if the principal becomes incapacitated, or it can be set up to take effect only when the principal becomes incapacitated.

There are two types of durable powers of attorney: a durable power of attorney to manage financial affairs and a **durable power of attorney for health care**.

Powers A term that refers to the authority granted to a **conservator** to take certain actions for the benefit of the **conservatee** or the conservatee's **estate**.

Principal A person who creates a **power of attorney** that authorizes another person, the **attorney in fact** or *agent*, to act for the principal in financial matters or concerning the principal's health care decisions. The term is also used to refer to the assets held in a trust, to distinguish them from the income earned by the trust. See **trustee**.

Probate conservatorship The most common kind of conservatorship, defined and governed by statutes collected in the California Probate Code.

Probate court The department of each county's superior court that deals with **probate conservatorships**, **guardianships**, **decedent's estates**, and certain other kinds of matters. Unlike some states, California's probate court is a branch of the superior court, not a separate court.

Probate investigator See **court investigator**.

Probate referee A professional appointed by the California State Controller and assigned by a judge in the probate court to appraise the value of a **conservatee's** noncash **assets** listed on the **Inventory and Appraisal**.

Psychotropic drugs Prescription medicines used to alter cognition, mood, or behavior. These medicines are sometimes used to treat persons with **dementia**. You need specific prior court authority based on a strong showing to authorize the use of these drugs in the treatment of the **conservatee**. You may be able to obtain a list of psychotropic drugs from your county's Department of Mental Health Services.

| | |
|----------------------------------|---|
| Public guardian | A county agency authorized to accept appointment and to serve as conservator of a person living in the county. The public guardian is sometimes also called the public conservator. |
| Qualify | The term applied to the steps a proposed conservator must complete after he or she is appointed in order to receive Letters of Conservatorship . A conservator of the estate qualifies by obtaining and filing a bond . Conservators of the person and of the estate also must take an oath, sign a receipt for this handbook, and satisfy any local court requirements before they qualify. |
| Receipts | Cash or other assets received by a conservatorship estate other than those listed on the Inventory and Appraisal . Receipts must be reported to the court in periodic accounts . Receipts generally include all estate income. |
| Reconcile, reconciliation | The process of comparing your records of a bank account with the bank's records to verify the balance in the account as of a certain date. |
| Record | Registration of a document with a county recorder's office is called recording it. Recording a document gives the public some notice of its contents. Recording is generally used to establish the owners of interests in real property. Recording Letters of Conservatorship in a county where the conservatee owns an interest in real property gives notice of the existence of the conservatorship to any person attempting to deal with the real property and imposes a duty on that person to inquire further. The person is treated under the law as though he or she knew about the conservatorship even if he or she had no actual knowledge of it. |
| Regional center | A nonprofit agency that contracts with the State of California to provide or find services for people with developmental disabilities . These services include assessment, case management, advocacy for disabled persons' rights, job training, counseling, recreation, and personal care. There are 21 regional centers throughout the state. |
| Removal | A judge's withdrawal of a conservator's appointment. The court then appoints another person as successor conservator. The removed conservator is replaced involuntarily because the |

court has determined that he or she isn't doing or isn't capable of doing the job right.

Respite care Temporary care provided to the conservatee to relieve his or her caregiver for brief periods.

Revocable living trust See **trustee**.

Secured-perimeter residential care facility A specialized kind of **care facility** designed for the treatment of persons with **dementia**, featuring secure outer fencing or locked exit doors. To place a **conservatee** in this kind of facility, the **conservator** must first establish and the court must find that the conservatee suffers from dementia, lacks capacity to consent to placement, and needs or would benefit from placement in this type of facility, and that this type of facility is the least restrictive placement appropriate for the conservatee's care.

Separate property See **community property**.

SSI Supplemental Security Income. SSI is an aid program, administered by the Social Security Administration, an agency of the federal government, for very low-income seniors and for disabled or blind persons of any age.

Substituted judgment petition A petition in a conservatorship proceeding in which the **conservator** or another person interested in the conservatorship requests the court to authorize or require the conservator to take certain kinds of proposed actions for the benefit of the **conservatee**, the **estate**, or those persons or organizations the conservatee would be likely to provide for or make gifts to. This kind of petition is used in a wide variety of situations. For example, a conservator may be authorized to sign a will or an amendment to a will for the conservatee, to revoke or amend a trust the conservatee had the authority to revoke or amend, or to make a gift from the conservatee's estate.

Surety company A specific kind of insurance company authorized by law to issue a **bond** to secure proper performance of the duties of a **conservator of the estate**. If the court finds that the estate has suffered a loss because of the intentional or negligent misconduct of its conservator, it can order the surety company to

make good the loss to the estate, up to the face amount of the bond. The surety company then seeks to collect the amount it has paid from the conservator's personal assets.

Temporary conservator, temporary conservatorship

A person or organization appointed by the court to handle the personal or financial affairs of a **conservatee** for a limited period of time while a **petition** for the appointment of a regular conservator is pending. The temporary conservator and the proposed regular conservator are usually the same person, but different people can also hold the two offices. The proposed regular conservator is sometimes referred to as a **permanent** conservator to distinguish him or her from the temporary conservator, but the regular conservator is only as permanent as the law allows and is always subject to **removal** by the court or to termination of the conservatorship by restoration of the conservatee's legal capacity. The appointment of a temporary conservator is a step in the regular conservatorship case or proceeding, but that portion of the larger proceeding is sometimes referred to as the temporary conservatorship.

Temporary Letters

See **Letters of Temporary Conservatorship**.

Totten trust account

A bank account in which a person is named as trustee for the benefit of one or more persons who will own the account when the conservatee dies. If the **conservatee** created the Totten trust account, its **beneficiary** doesn't own the account until the conservatee dies. As with the **POD account**, and for the same reason, the **conservator** should not change the account or withdraw money from it without the beneficiary's permission or a court order. Totten trusts are also known as *trustee bank accounts*.

Trustee

A trust is a way of owning assets. The trustee—a person or institution such as a bank—manages the assets held in the trust in the manner specified in the instrument creating the trust for the benefit of someone else, the **beneficiary**.

The **revocable living trust** is the most common type of trust seen today. It is a trust intended to take effect during the life of the person creating it (the **settlor** or **trustor**), but which he or she can cancel or modify at any time if he or she has the legal

capacity to do so. A **conservatee** in a **general conservatorship** is usually considered not to be capable of canceling or modifying a living trust, even though he or she retains the right to write a new will or to amend an existing will.

Revocable living trusts are created to avoid a **decedent's estate** proceeding after the settlor's death. The trust is, in effect, a substitute for a will. The settlor is often also the original trustee and is usually also a beneficiary of the current income from the assets held in the trust. Most revocable living trusts also authorize the trustee to provide for the settlor's support directly from the assets of the trust (the trust's **principal**), not just from the income earned by the assets. Many trusts also give the settlor the power to demand that the trustee pay or distribute all or parts of the trust's principal to the settlor.

A properly drafted trust agreement, or declaration of trust, appoints a successor trustee if the original trustee becomes incapable of handling his or her affairs and establishes a method of changing trustees without going to court. By the time you are appointed as **conservator**, the successor trustee of the conservatee's revocable living trust may have already taken over management of the trust. If he or she has not yet done so, you may be able to help him or her complete the steps necessary to become the acting trustee of the trust. Check with your lawyer first. **L**

If the conservatee created a revocable living trust, assets held in the trust, that is, title to which is held by the trustee, are not part of the **conservatorship estate**. They are dealt with as the trust instrument provides. However, the successor trustee will most likely have duties to the conservatee as beneficiary of the trust and may be the main source of the conservatee's support. You should develop a close working relationship with the trustee of any trust of which the conservatee is a beneficiary.

Under some circumstances, the conservator of the estate can, with prior approval of the court, exercise the conservatee's power, as settlor of the trust, to revoke or modify it or to compel distributions of trust principal from it. Steps of this kind require close consultation with your lawyer. **L**

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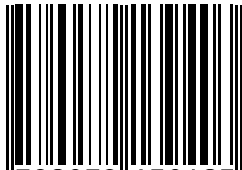
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